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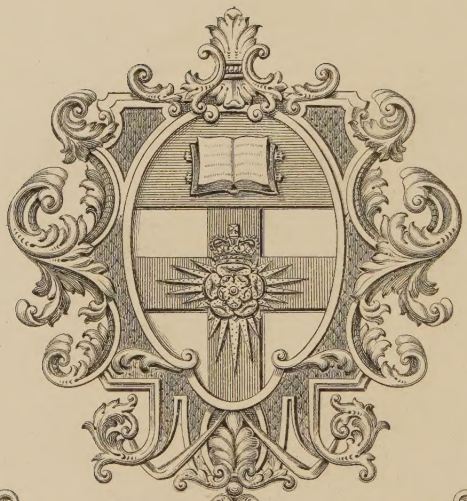

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TRANSACTIONS

OF THE

ROYAL HISTORICAL SOCIETY

PRESIDENTIAL ADDRESS

Delivered 8 *February*, 1934

By Professor F. M. Powicke, M.A., Litt.D., F.B.A.

Some Problems in the History of the Medieval University

The questions which, I imagine, are most frequently asked about the medieval University run something like this: What was the value of all this intellectual activity? Was there any sequence or permanence in it? What kind of degree did scholars take? Was it a mere form, or did it involve a serious mental discipline? We can best get some ideas about the answers to such questions—I do not say that we can ever get very satisfying answers—by looking at Paris in the middle of the fourteenth century.

By this time the University was fully developed. The four faculties of Arts, Medicine, Decrees, and Theology were clearly defined, each with its own statutes, organisation, and records. Three of them, if not all four, were localised, that is to say, their studies and activities went on in definite areas of the University quarter. Just as at Bologna the jurists had their headquarters in the Dominican and the artists in the Franciscan church, so the artists in Paris lived in the neighbourhood of the church of St. Julian and

in the Rue du Fouarre, while the decretists or canonists lived in the Clos Brunel. The use which the theologians made of the College of Robert de Sorbon was in all probability the result of a similar tendency, especially among the secular theologians,[1] though it would be as wrong to identify the Faculty of Theology in the Middle Ages with the Sorbonne as to identify the jurists of Bologna with the Dominicans. The Faculty of Medicine, always more closely connected with the Faculty of Arts, appears to have had no definite centre; it is not known to have acquired a home until 1470 when it bought a house in the Rue de la Bucherie. But its precious commentaries, or records of Faculty meetings, survive from the year 1395,[2] and its distinct organisation under a Dean can be traced back at least to 1330. Each Faculty, and each of the four Nations which together made up the Faculty of Arts, had its parchment book of statutes, privileges and calendar, and its continuous paper registers which contained the minutes of meetings, and the names of scholars admitted as bachelors, or to the licence and the full mastership. The Registers of the Anglo-German Nation survive from 1332—a very precious record of academic activity from month to month in one society or corporation of the University.[3] Until the commentaries of the Medical Faculty begin in 1395, and the registers of the Faculty of Decrees in 1414,[4] they are the only record of the kind. Sometimes the registers tell

[1] The University used the Sorbonne for disputations from at least the early years of the fourteenth century; see the *Chartularium*, ii, 693, with Denifle's note, p. 695. The *Sorbonica* or disputation, held on Saturdays between members of the College, was carefully regulated in 1344. The statutes issued by the *provisor* of the College in this year suggest that this domestic exercise was a new departure, different from the disputations mentioned in the University statutes (*Chartularium*, ii, no. 1096).

[2] E. Wickersheimer, *Commentaires de la Faculté de Médecine de l'Université de Paris*, 1395–1516 (Doc. inedits sur l'histoire de France), Paris, 1915.

[3] Denifle et Chatelain, *Auctarium chartularii Universitatis Parisiensis*, vols. i, ii (Paris, 1894, 1896).

[4] Cf. J. Bonnerot, "L'ancienne Université de Paris, centre international d'études," in the *Bulletin of the International Committee of Historical Sciences*, i, 672 (July, 1928).

us about meetings of Congregation, the assembly of masters of all faculties. But the more important proceedings of Congregation were described in reports and memoranda which, though sometimes they survive separately, are for the most part found in one or more of the chartularies of the University; and these chartularies seem to have been compiled as often for the use of nations and faculties as for the use of University officials as such.[1]

Congregation might include as many as 200 masters; it usually met at St. Mathurin. No doubt customary meeting-places came in time to be used by the several nations and faculties; but there was no fixed rule. The English Nation, for example, met in many different places, including the houses of officials and on at least one occasion in a tavern. The examinations *in camera*, which preceded the formal rites of inception or the licence, were apparently held anywhere, just as in our Universities to-day examiners sometimes conduct oral examinations, discuss the written questions or decide the fate of candidates in private houses or college rooms. Official life in the University of Paris was not merely a series of solemn acts directed by solemn bedels, of formal public meetings and elaborate religious ceremonies, or of feasts and junketings. It was the life of men who did a great deal of academic work in informal ways. These men were crowded together in colleges, hospices, houses and lodgings. The "scholars" comprised men and boys of different ages and dignity and social importance. One gets the impression that the gradual passage from the status of scholar to that of bachelor and of bachelor to master was not the orderly affair which it is to-day, but might be accompanied by great discomfort; it was not easy to find *scolæ* or rooms for the exercises of the bachelors; men qualified for the licence might have to wait a long time and to use arts and blandishments to get it; masters could not be sure of finding a school in which to teach. This aspect of the medieval University

[1] Denifle et Chatelain, *Chartularium Univ. Paris*, i (1889), pp. xxxii–vi.

has not been systematically studied and perhaps will always be a matter of surmise. We can learn a good deal about forms and constitutions on the one hand, and of the less academic sides of student life on the other; but so far we can only form impressions about the heat, the intensity, the personal give and take, of everyday academic life. Yet this was the real life of the University, for in this combination of routine and scramble the masters and scholars gave or heard lectures, conducted or attended disputations, and found time and place for private study; it was in this atmosphere that they took sides on all the vexed questions of the day, from the casual incidents of a crowded and in every sense a very touchy companionship to the larger matters of academic prestige, public concern, theological or philosophical controversy, and high ecclesiastical policy.

The labour of recent scholars upon the manuscripts which contain the writings of scholastics—with the great men and those of secondary importance—have given the intellectual life of Paris a new perspective. The chief defect of Rashdall's *Universities of Europe in the Middle Ages*, to my mind—an inevitable defect no doubt—is that it fails to convey an impression of depth. I mean depth as a dimension, not as a metaphor for intellectual thoroughness. His picture of medieval Paris has extension but not depth. Hence it conveys little sense of coherence, of a closely knit, if turbulent, society actually alive and carried along by its own impetus. Yet we cannot realise the significance of a medieval University if we do not go beyond a classification of its activities and a summary description of its interests. Let me illustrate this point by a few definite considerations:

1. The University was intensely self-conscious and self-important. To what extent this was true of other Universities requires investigation, but it was true of Paris and Bologna. The graduates of Paris were scattered over Europe and did not forget their colleagues at the *alma*

mater. The regent masters felt that they were the centre and source of the intellectual life of Europe, the spring of the *Studium* which refreshed the *Imperium* and the *Sacerdotium*, and was one of the three functions of the Christian society. When the project of a Council was under discussion during the Schism, the theologians and decretists of Paris insisted that the representatives of law and theology should equal in numbers the representatives of the hierarchy and monastic orders. Their arrogance shocked some of those who shared their conciliar views. Dietrich of Niem, for example, protested against it. Now this spirit was no new thing; it was merely an expression of an habitual attitude of mind, the attitude rebuked by the future Boniface VIII in November, 1290, when, as papal legate, he trounced the academic critics of Pope Martin IV's privilege in favour of mendicant orders. Certain masters had determined against the bull: he would have them know that the feet of the Church were *non plumeos sed plumbeos*. "You sit in chairs and think that Christ is ruled by your reasonings." One is reminded of Harnack's remark about the professors of Berlin, that they thought they sat at the loom of history. The confidence of the Parisian masters in themselves was not unnatural. It had been fostered by flattery and protection, and was kept lively by constant disputes over the judicial immunities of the Parisian scholars. During one of these disputes, a master seriously suggested that both the bishop and the provost of Paris as *conservator* of the University should be summoned before Congregation as before a tribunal.[1] During a controversy (1384) about the right of the canons of Notre Dame to lecture on the canon law, the decretists maintained their claim to monopoly by elaborate historical arguments and by dwelling upon the advantages which concentrated study and teaching in a closely confined area possessed over the more leisurely and isolated performances of a clergyman in a cathedral close.[2] Here we come to the heart of the matter.

[1] *Auctarium*, ii, col. 643 (1446). [2] *Chartularium*, iii, no. 1486.

2. The masters, we have seen, had discussed the bull of Martin IV in their lecture rooms. They had weighed the pros and cons and had "determined" upon them. The *scola* was indeed the workshop of opinion; it was an intellectual smithy, to which metal of every kind could be brought. One of the hottest disputes of the fourteenth century (1385) concerned the duties of the chancellor towards bachelors who had qualified for the licence. The masters claimed that the real work was done by them: they examined the candidates and gave the necessary certificates; they decided who should or should not have the licence to teach. It was the duty of the chancellor not to discriminate or delay or accept large gifts which in reality were bribes. And the chancellor complained that one master had "determined" that he was a heretic, for he was obstinate in the breach of his sworn trust and so was rejecting the divinely disposed order of things.[1] The appeal to the schools was no formality in the Middle Ages. When Thomas Cranmer, then a theological master at Cambridge, suggested that King Henry VIII should refer the problem of the divorce to the Universities, he was not merely suggesting a way out of a difficulty. He was influenced by a tradition which had been immensely strengthened by use since, more than 250 years before, another King Henry had played with the idea of submitting his dispute with Thomas Becket to the judgment of the masters of Paris. Almost anything might be referred to the judgment of the masters. Their deliberations upon matters of ecclesiastical, theological, moral and public interest would fill many large volumes.[2]

In matters of heresy the joint commissions of theologians and the local authority, including the inquisitor, came to have executive authority in Northern France. And the schools where the masters lectured or presided over dis-

[1] *Chartularium*, iii, pp. 409, 410.

[2] E.g., the sentences of censure pronounced by the Faculty of Theology before 1735 fill the three folio volumes of the *Collectio judiciorum de novis erroribus*, made by the Bishop of Tulle, C. du Plessis d'Argentré (Paris, 1724–36; new edition, 1755).

putations were the workshops of the opinion, which was expressed in solemn judgments of the University. I am inclined to think that the preoccupation of historians with the general trend of medieval thought and particularly with the work of the Dominicans and Franciscans has tended to conceal the significance of this fact. Although another favourite preoccupation of medieval scholars is the organic nature of medieval society, with its estates, corporations and gilds, the activity of the University as a social structure has been overlooked. In the medieval section of his well-known book, *Die Soziallehren der Christlichen Kirchen*, Ernst Troeltsch omits altogether any consideration of the Universities as such. Now it is true enough that, in the thirteenth century, the Dominicans and Franciscans set the pace in the development of scholasticism, but the treatment of this fact in historical literature conveys a very misleading impression of academic life.[1] The Dominican priory at Paris, for example, was not a kind of beneficent cancer which absorbed the life of the University and drained the secular element of vitality. What happened was something like this. Two great centres of intellectual activity were fostered, partly by their own internal energy, partly by papal support and direction. One of them, the University of Paris, was centralised ; the other, the system of Dominican schools, was a kind of distributed University, highly organised, pervading the whole order. Much of the more important work of St. Thomas was not lectured and written at Paris at all, but in the Italian *studia* of his order. The two movements naturally had to find a *modus vivendi* at the point where they met : the danger that the Dominican (and, a lesser danger, that the Franciscan) theologians might secure a monopoly was for a time a real one, especially as it coincided with a crisis in the history of the Parisian schools,

[1] In his *Repertoire des maitres en théologie de Paris au XIII^e siècle* (Paris, 1933), Father P. Glorieux deals with 71 Dominican and 233 secular masters of theology. In a forthcoming section he will deal with 51 Franciscan masters.

but, once surmounted, it and other problems incidental to the presence of flourishing Mendicant priories were adjusted —uneasily, unevenly, with all the clamour and publicity which attend academic disputes—but they were adjusted. And in the process of adjustment each side strengthened the other. The mendicant philosophers and theologians had in Paris a sounding-board. The secular masters learned something from the organisation of the new orders and got prestige from the fame of some of their new colleagues. S. Thomas, at Paris, like the Franciscan John Pecham at Oxford, probably put some method into the traditional system of disputations. But nobody at Paris in the thirteenth and fourteenth centuries would recognise the conventional picture of the medieval University in that city as the home of a few great men, followers of St. Francis and St. Dominic, surrounded by a crowd of garrulous dullards. This is a ridiculous travesty of the truth.

3. The intensive work, to which I have referred, upon the manuscripts of this period has done much to recapture the activity of the schools and to rehabilitate the secular masters. It has shown that the text-books—what we call "set books"—were the occasion of incessant discussion, so that there was gradually accumulated about them in the stationers' shops an important lending library of accredited commentaries and treatises. Each faculty had its prescribed texts,[1] just as the theologians had the Bible and the Sentences of that very great man Peter the Lombard. Rashdall was puzzled by the *ars medicinæ*; he thought it was a book, whereas we now know that it was a *corpus* of texts, originally due to the famous teacher of Salerno, Constantinus Africanus, who lived in the eleventh century—a group of medical texts which medical students had to know. The artists had their exegetic lectures on logical and Aristotelean texts; they had lectures in the course of which

[1] S. d'Irsay's recent *Histoire des Universités*, vol. i (Paris, 1933), although it adds nothing to our knowledge of University organisation, rightly emphasises this side of University life.

"disputed questions" were dealt with under the careful guidance of the master and his bachelor; they had sophistical disputations, corresponding, as Monsignor Grabmann has pointed out, to the *quodlibets* of the theologians, in which, according to fixed rules, all sorts of matters could be fully discussed and disputed, before the presiding master summed up and determined.[1] The decretists had the Decretum of Gratian and the Decretals of Gregory IX, Boniface VIII, and Clement V, masters lecturing on the Decretum, bachelors on the rest. In the Faculty of Theology the bachelors lectured on the Sentences, while the masters did the greater part of the teaching and lecturing on the Scriptures. Most of the surviving literature was clearly based on this teaching, or records these disputations, and most of the literature which does not reflect this experience was intended for the use of teachers and scholars. The catalogues of libraries, notably of the Sorbonne early in the fourteenth century, show conclusively that the University of Paris was much more than a society of boys who read a few text-books, of disputes which led nowhere, and of a few exceptional men who worked aloof from the life around them.

4. Time has done rough justice to this mass of learning. The wheat has been separated from the chaff. But the toilers of to-day, as they work among the chaff, have discovered many precious things. Much of it remains pure chaff. Not long ago I had occasion to read a little of a commentary on Aristotle's Ethics by a famous Oxford scholar, Walter Burley. From a few passages I formed the impression that a study of the commentaries on the Ethics and Politics written by the masters who were better known in their own time than they are now, might have fruitful results. I hoped that they might contain topical references, discussions of contemporary matters of significance to the student of medieval social life and politics.

[1] M. Grabmann, "Die Aristoteleskommentare des Simon von Faversham" (from the *Sitzungsberichte der bayerischen Akademie der Wissenschaften*, Philos.-hist. Abt. 1933), pp. 11–13.

The *questiones* of the twelfth and early thirteenth century, the *quodlibets* of a rather later time, the sermons of all the centuries, often give help of this kind. So I suggested to a young Jesuit that he might, as an experiment, take Walter Burley on Aristotle's Politics. He waded through a long manuscript and found nothing whatever; it was just a dull uninspired attempt at an exposition of the text. Undoubtedly there is much chaff. Indeed, when all this work is done, I imagine that its main value will be in the revelation of that continuous activity, in which the grain was sown from generation to generation, and the sowers were disciplined to scatter it—and a lot of chaff with it—at the call of popes and kings, councils, bishops, inquisitors, or to carry it away—a source of inward sustenance rather than of outward influence—in the service of church and state.

Yet this is by no means the whole story. Perhaps the best illustration of the point which I am trying to make is to be found in the history of logic. At first sight nothing is less helpful. We are told, for example, that a Durham man, William Shirewood, much praised by Roger Bacon, had great reputation as a teacher of logic at Paris; that one of his pupils, Petrus Hispanus, later Pope John XXI (1276), compiled a text-book of logic, the *Summulæ logicales* which was destined to be for centuries the favourite text-book in the subject; that in succession to him we find important logicians, among them John Buridan, who was rector of the University in 1327 and 1348 and wrote important commentaries on the *Physics* and other Aristotelean works. This does not take us very far; but if we can trust the experts, we have here the bare bones of a significant story. Peter Hispanus summed up a stage in the development of dialectic—the dialectic of the sophistical disputations in which the sceptics and Averroists of the thirteenth century, headed by Siger of Brabant, found expression. We find this dialectic flourishing early in the next century in Oxford, and though its work was soon forgotten in England, it lived on the continent, where the

names of Oxford scholars, much distorted by foreign lips, were to be familiar in the Italian schools until the beginning of the seventeenth century. Meanwhile, logical exercises in Paris had been more fruitful; dialectical method was used, on the one hand, in the interpretation of Aristotelean science, on the other, to explain the direct observation of natural phenomena; the outcome was the teaching of Buridan and his followers. Their theories of physics, especially Buridan's theory of *impetus*, in due course influenced the great Italian scientists of the sixteenth century, who were not so independent of their predecessors as is generally supposed. In other words, modern science does not start with Leonardo da Vinci, Galileo and the rest; it began at Paris in the class-rooms and studies in the crowded narrow streets of the artists' quarter, and the way to it was prepared by men, young and old, who had wrangled about logical terms and pored over the text of Aristotle and had gradually realised how important it was to observe facts for themselves.

Buridan was an Occamist, one of many. He did not hold with the "moderns," as they were called, who denied that the existence of God could be proved; but he and his successors, in what are often believed to be the barren years, were deep in those discussions about names and things which were to affect the history of the modern world. I am speaking of things which I do not understand and am warned by the facile generalisations of the latest philosophers of history. Yet there seems no reason to doubt that this period saw a turning-point in the history of thought. At bottom the issue between the Thomists and the new nominalism (and how recently the teaching of St. Thomas had itself been suspect) turned upon the possibility of believing in the essential reasonableness of the universe. If faith need not be divorced from reason, conscience need not be in a state of civil war, divided against itself; the sanctions of behaviour, whether political or religious, are not capable of fundamental discord. This is the Thomist view.

But the Occamist philosophy, reflecting and justifying current tendencies, was different. Luther, who read the Occamists, and perhaps did not always understand them, was tortured by a sense of discord which he could not transcend. That facts were not in harmony might be transitory, but there was a fundamental lack of coherence in intellectual experience. A man, while intent on personal salvation, might have a duty, a moral duty, to sin in maintaining the sanctions of society and the state. The brutal instinct which sends a criminal to be broken on the wheel has its own authority. Luther's successors, and men and women in all countries, are face to face with this dreadful dilemma to-day.

In these notes on Paris in the fourteenth century I have said enough, I hope, to show that the first group of questions with which I began are serious questions : " What was the value of all this intellectual activity ? Was there any sequence or permanence in it ? " And the next group of questions, " What kind of degree did scholars take ? Was it a mere form, or did it involve a serious mental discipline ? " are clearly very serious questions also. The point to be made here is that, in such an academic life as I have tried to suggest existed in Paris, intellectual earnestness and excellence were not revealed by a kind of accident ; they were not in the nature of the case exceptional. They were encouraged. A keen student found incentive all about him. This after all is the main thing. It would be absurd to suppose that the students in the medieval university were, as a whole, an especially bright or conscientious set of men, though I imagine that circumstances selected them quite as carefully as they select university students to-day. As a medieval distich says : " You may send a little donkey to Paris, but if he is an ass here, he won't be a horse there." Whatever he were, he could find plenty of fodder. Rashdall, who was the last man to encourage any illusion on this subject, points out that the obligation to attend and, later, to take part in disputations, deprives the problem of

efficiency in examinations of much of its significance.[1] A young man who had " determined " in arts, or a theologian who had reached the grade of " formed bachelor," had gone through a very severe discipline. The determiner, for example, had been required to display intellectual agility and persistence in disputations which lasted for several weeks. The formed bachelor had been required to lecture on the Sentences and knew that if his lectures, when he had revised and published them, won esteem, his name would be made. The very conditions which would help a scholar to be idle or perfunctory, could encourage another to put out all his powers. Until 1452 lectures in arts and, both before and after 1452, lectures in law were given without notes and in a rapid or at least continuous voice, without pauses. A good lecturer had to be quite sure of himself and a good hearer had to have a retentive memory. There was a great to-do in the Faculty of Decrees in 1386 when a master, usurping the function of the bachelors, lectured to large and profitable audiences on the Decretals by the light of a candle, that is to say, read lectures which could be taken down.[2] These particular lectures according to the statutes had always to be given by a bachelor at an early hour ; no candle was allowed, and as the academic year comprised the period when the days were short, this meant that the lectures were given in darkness. Although the masters presumably lectured in daylight, it must have been very difficult to take their lectures down—a fact which may even help to explain the discrepancies and incoherences in the *reportationes* or texts made by the masters' bachelors. Now when we remember that these lectures were full of references, we realise that they might put a heavy strain upon the attention and memory of those who heard them.

[1] Rashdall, i, 471 ; cf. 456 *seqq*. Since this paper was written, the publication of the volume *Oxford Theology and Theologians, c. 1282–1302*, by A. G. Little and F. Pelster (Oxford Historical Society, vol. xcvi, Oxford, 1934), has greatly facilitated the understanding of the academic exercises at Paris and Oxford ; see pp. 29–56.

[2] *Chartularium*, iii, nos. 1528–31.

The relations between master and pupil and the importance of the memory in the medieval system of education are described very neatly in a short tract, *De regimine et modo studendi*, written in the thirteenth century by an Italian master, Martino da Fano. The tract is dedicated to his pupils (*dilectissimis scolaribus*). He advises them, in their judgment of a master, to consider whether he teaches the things which he ought to teach, is willing to answer questions, and draws out what is in the inquirer's mind. Does he suffer opposition sensibly and give reasons for what he asserts? Does he make an adequate impression upon his hearers and use effective illustrations to explain his arguments? Is he free from pretentiousness, really helpful, and more concerned with the truth than with fine tricks of speech. Then, turning to the scholars, Martin warns them to set a high standard before themselves, to see that they understand the legal argument so that everything fits and not to think they know unless they fully understand every part. "And finally, as you lie in bed or walk about the street, go over what you have learned and say, 'To-day I have learned so many laws, and these are the opening words of each.'" [1] Again some of you will remember the story of Albert the Great, how while he was lecturing one day in his *scola* at Cologne his memory suddenly failed him and his reasoning would not come. He sat silent for a little while: then, flushed and comforted, he told his pupils that the Virgin had appeared to him long ago, and after she had anticipated a life of great learning for him, had warned him that this would happen to him, *in publico officio lectionis*. From this time he gave himself to prayer, and, though he could still remember his texts, the power to recollect *rationes philosophicæ* never returned to him.[2]

He could still remember his texts. One version of the

[1] Edited by L. Frati, in *Studi e Memorie per la Storia dell' Università di Bologna*, vi (1926), 25–9.

[2] Cf. P. Lehmann, "Mitteilungen aus Handschriften, IV" (from the *Sitz. d. bayerisch. Akad. d. Wissenschaften*, 1933), pp. 10, 11, 15, 16.

story defines this as the text of Scripture and philosophy, though what the content of *philosophia* was I do not know. The implication is that Albert knew the Bible and a good deal of Aristotle by heart. If this is not interpreted pedantically, I imagine that it is true. A true medieval scholar knew the great texts of his subject and could refer to them from memory. Now anyone who has ever looked at a medieval commentary or a reading (*lectura*) in the civil or canon law can realise the significance of this fact.[1] It suggests a mental discipline as astonishing to us as the physical discipline suggested by a suit of medieval armour. Picture to yourselves a young law student attending a lecture in the dark, a lecture given in a level continuous voice, without pauses. Picture him later, as a bachelor, engaged in disputations or in lecturing on the problems raised by a decretal. Think of the opponent ready to trip him up and on the alert for the least slip. A man who could go through this discipline and be certified as ready to undergo an examination *in camera* might well be permitted to pass on to his mastership after a very perfunctory test. I do not deny that there were ways of evasion and periods of slack administration ; but, so far as I can understand the texts, the system was more or less as I have sketched it. In any case, before we safely conclude that every one passed his examination as a matter of course, we must know two things : first, how many scholars dropped out by the way ; secondly, are the records, even when they seem to be complete, records of successful candidates only, or of all candidates, all of whom got through ?

The impression that medieval examinations can be ignored, even if they existed, is untrue, and results from a hasty concentration on the more formal ceremonies, which fill so much space in the university statutes. The belief in a course of apprenticeship, followed by testing, is funda-

[1] Cf. the study of the references (*allegationes*) and abbreviations in legal texts, by H. Kantorowicz, " Die Allegationes im Späteren Mittelalter," in *Archiv für Urkundenforschung*, xiii (1933), 15–29.

mental in early societies, as we may learn from the anthropologists, as well as from Tacitus and the practices of medieval chivalry, and of medieval arts and crafts. The examination system is very old and in the Middle Ages was widespread. There is a story of an examination in medicine at Salerno about 1200, when a rejected candidate went in disgust to Montpellier.[1] Stray references in Buoncompagno's writings seem to imply examinations at Bologna about the same time, and the letters of Pope Honorius III to the archdeacon of Bologna enforced them. Grabmann has noted in two thirteenth-century manuscripts a collection of questions to be discussed in examinations on the Arts course at Paris together with the answers.[2] At the Papal Court poor petitioners for benefices had to undergo examinations, and records of the reports of examiners survive, saying how one candidate sang badly, or another failed to satisfy in reading.[3] It should be noted, by the way, that university graduates were excused this examination, and the fourteenth-century university graduates in the main depended upon the Pope for provision to benefices. Our chief record of the graduates of Paris and Oxford, for example, is the *rotuli* containing the names of graduates submitted by the authorities to the Papal Court ; and when the withdrawal of obedience at Paris during the Papal Schism, and the Statutes of Provision and Præmunire in England, seemed likely to interfere with the transmission

[1] In a commentary on Giles of Corbeil, edited by K. Sudhoff in *Archiv für Geschichte der Medizin*, xx (1928), 51–62.

[2] *Revue néo-scolastique*, xxxvi (1934), 211–29, from Ripoll MS. 109 in the archives at Barcelona. For another text in Kassel MS. 2° Philos. 39, see Grabmann's paper on Simon of Faversham, cited above, p. 20. Virgilius Wellendorfer, who wrote a most interesting and detailed account of his studies at Leipzig (1481–7), gives a list of the questions which he had to answer at his preliminary examination (*tentamen*) and *examen* proper for the licence in 1487 ; see the valuable essay of R. Helssig, *Die wissenschaftlichen Vorbedingungen für Baccalaureat in artibus und Magisterium*, especially pp. 80 *sqq.* (*Beiträge zur Geschichte der Universität Leipzig im fünfzehnten Jahrhundert*, Leipzig, 1909).

[3] See H. Grauert in *Abhandlungen der bayerischen Akademie der Wissenschaften*, Philos.-hist. Kdasse, xxvii (1912), 296–9.

of the *rotuli*, the consternation in university circles was very great. But my point is that at the Papal Court graduation in a university was considered to be a proof of competence ; it excused applicants for papal provisions from examination.

In the statutes of the theological faculty at Bologna, edited by the late Cardinal Ehrle, we have precise regulations for examination. The statutes were compiled in 1364 and were explicitly based on those of Paris, which are now lost. Here is the statute headed " on the procedure to be observed in the private examination." [1] The candidates were bachelors who had been recommended for admission to the test which preceded the conferment of the licence, i.e., the mastership or doctorate in theology. I summarise the text : As effort wanes without reward, so distinction suffers if it is given to the unworthy. It is inconsistent with our duty to acquiesce in either of these possibilities, so we prescribe as follows. Three days before the examination the dean shall choose two subjects (*puncta*), that is, two *distinctiones* from the Sentences. He shall frame two very debatable questions, suggested by these, stating both sides of the case, and shall give these in writing to the candidate. A full day before the examination (i.e., two days later) the candidate shall give in writing to each master in the faculty his reasoned conclusions on each question, under four or five heads. On the next day at the eighteenth hour those masters whose schools are incorporated in the theological body (*universitas*) shall come together in conclave before the chancellor. First the dean, then each master in turn, according to seniority, shall dispute against the position taken by the candidate on the first *questio*, giving two or three reasoned arguments, which are to be sprung upon the candidate, or as we say, to be " unseen." The candidate must give three reasoned replies (*replicationes*) to the

[1] F. Ehrle, *I più antichi statuti della facoltà teologica dell' università di Bologna* (Bologna, 1932), pp. 34–6. For the examinations in law at Bologna, cf. Rashdall, i. 226–8.

first argument and two to the second. And then the same process is to be observed in dealing with the position on the other *questio*. When all this is over, the candidate shall be sent out of the room, and the chancellor shall call on each master to give his honest opinion both of the moral character of the candidate and of his fitness for the degree. (In 1364 the decision of the weightier—*major vel sanior*—element prevailed; according to a later recension of the statutes the voting was by ballot and three adverse votes could fail the candidate.) Until his success is assured the candidate must on no account, on pain of perjury, offer gifts to his examiners; but later he may offer them wine and refreshment, provided that the cost of the entertainment does not exceed two florins. I doubt if I could ever have passed an examination of this kind.

THE CAREER OF WALERAN, COUNT OF MEULAN AND EARL OF WORCESTER (1104–66)

By Geoffrey H. White, F.R.Hist.S.

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M. Depoin begins his brief account of Waleran by remarking that his "existence mouvementée pourrait faire l'objet d'une thèse attrayante, où serait mise en relief la vie d'un grand feudataire anglo-français au XII^e siècle." [1] As his suggestion has been neglected on both sides of the Channel, I have ventured to attempt the task.[2]

Waleran belonged to one of the greatest houses of the old Norman baronage. His father Robert de Beaumont, Count of Meulan and Earl of Leicester, was son of Roger de Beaumont, Lord of Pontaudemer and Beaumont, whose father, Humfrey de Vieilles, was son of Thorold de Pontaudemer by a sister of Gunnor Duchess of Normandy.[3] On his mother's side Waleran was of still more illustrious

[1] Depoin, *Cartulaire de St. Martin de Pontoise*, p. 319.

[2] For short notices of Waleran, cf. La Roque, *Histoire Généalogique de la Maison de Harcourt*, I, 59–69; *L'Art de Vérifier les Dates*, XII, 158–62; Delisle, *Recueil des Actes de Henri II*, Introduction, p. 466, and Depoin, *op. cit.*, pp. 319–22, the last being copied by Bories, *Histoire du Canton de Meulan*, pp. 33–5. There is a longer but quite untrustworthy account by Réaux, *Histoire du Comté de Meulan*, pp. 173–220. On the English side there is a short article in the *Dict. Nat. Biog.* (*sub* Beaumont) by J. H. R[ound], and another in the *Complete Peerage* (2nd ed.), VII, 737–8, a full account being reserved for the article on "Worcester." After I had written this paper, a friend kindly called my attention to an American account of Waleran by the Rev. A. Griscom, in his new edition of Geoffrey of Monmouth's *Historia Regum Britanniæ*. I have added some references to this in footnotes.

[3] Guillaume de Jumièges (ed. Marx), p. 324 (additions by Robert de Torigny). On the question whether Thorold's wife was Aveline or Wevie, cf. White, *Genealogist*, N.S., XXXVII, 57–8.

descent, for the Countess Isabel was daughter of Hugh the Great, Count of Vermandois, younger son of Henry I, King of France.[1]

Waleran and his twin brother Robert were born in 1104,[2] and were only three or four years of age when their father obtained the king's confirmation of his plan to divide his vast estates between them after his death.[3]

This provided that Waleran should have the Norman lands, together with Sturminster in Dorsetshire, which had been held by his grandfather Roger de Beaumont in 1086,[4] whilst the rest of the English lands were to pass to Robert. If either twin were to die or to be incompetent to hold lands, his share was to pass to his brother; and if both were to die and their father should die without any other issue by his wife, the whole inheritance was to pass to their sister.[5] And if the twins should lose their inheritance on either side of the Channel, they were to share what was left.[6]

Evidently Count Robert had had no more children since the twins were born in 1104, and it might perhaps be deduced from the terms of this settlement that he did not expect to have more; but subsequently his wife gave birth to another son and four more daughters.[7] Nothing is known of

[1] Ordericus Vitalis, *Historia Ecclesiastica* (ed. Le Prévost), III, 480; IV, 169.

[2] *Ibid.*, IV, 191.

[3] Cott. Vesp. Dx., f. 132. (I am indebted to Prof. Stenton for a copy of this charter.) The date is deduced from the words: "quicquid tenebat predictus comes in Anglia in secundo anno quod ego Normanniam prelio mihi subiugaui."

[4] Roger de Beaumont held lands in cos. Dorset and Gloucester (*Domesday Book*, I, 80, 168), which all passed to Waleran. If Roger did refuse the offer of lands in England, as stated by William of Malmesbury (*De Gestis Regum*, ed. Stubbs, pp. 482–3), he evidently thought better of it.

[5] This was evidently the daughter born in 1102 and betrothed in 1103 to Amauri de Montfort, of Montfort-Amauri, afterwards Count of Evreux (Ord. Vit., IV, 191). Le Prévost identified her with Adeline, who married Hugh de Montfort, of Montfort-sur-Risle (*ibid.*, loc. cit., n. 3); but she was probably the daughter whose name and fate are unknown and who doubtless died young.

[6] As the *comté* of Meulan was held of the King of France, it was of course ignored in Henry I's charter.

[7] Ord. Vit., IV, 169.

Waleran's childhood during this period,[1] nor does his name occur in charters as assenting to grants by his father, who died when the twins were between 13½ and 14½. However, the names of the three boys do occur as witnesses to a charter of Robert, in favour of the abbey of Bec,[2] the authenticity of which is open to question [3]; and they are named as consenting, with their father, to an exchange between the abbey of Préaux and the priory of Beaumont,[4] the record of which must be of later date, as the youngest boy is styled Hugh the Poor: a nickname which he cannot have borne as a young child.

The great Count Robert died on the 5 June, 1118,[5] and his widow promptly remarried William de Warenne, 2nd Earl of Surrey.[6] Probably she took her daughters and youngest son with her, but the twins were brought up by the king, out of the love which he bore their father, his trusted friend and adviser.[7] Waleran inherited the *comté* of Meulan in the French Vexin, with the castle and town of Meulan on the Seine; and in due course Henry I divided the Norman and English lands between the twins in accordance with his charter confirming their father's settlement. Accordingly, Waleran received the Norman baronies, with the castles of Pontaudemer, Brionne and Beaumont aligned along the valley of the Risle, and the castle of Vatteville on the Seine and thus became one of the greatest barons of Normandy.[8] He had also the comparatively small estates

[1] Unless we accept Geoffrey of Monmouth's vague statement that Mother Philosophy sent him to the camps of kings, where he surpassed his comrades and became the terror of the foe under his father's auspices. Geoffrey of Monmouth, *Historia Regum Britanniæ* (ed. Griscom), p. 86.

[2] Nichols, *Hist. Leicestershire*, I, pt. I, App., p. 48; cf. Porée, *Histoire de l'Abbaye du Bec*, II, 578.

[3] Waleran's name follows that of his younger twin, and the counterseal is unusual (Nichols, *op. cit.*, Plate XIV, fig. 1).

[4] Le Prévost, *Notes sur l'Eure*, III, 98.

[5] Ord. Vit., IV, 313. [6] Guil. de Jumièges, pp. 332–3.

[7] Ord. Vit., IV, 438.

[8] His son and successor held 63½ knight's fees in Normandy, although his *servitium debitum* was only 15. *Liber Rubeus de Scaccario* (ed. Hall), p. 626.

which had been held by his grandfather in England, whilst Robert was given the rest of the English lands [1] with the earldom of Leicester.[2] Their younger brother Hugh, born since the settlement of c. 1108, was ignored and became known as Hugh the Poor.[3]

In September, 1118, a rebellion broke out in Normandy and amongst the insurgents was the twins' cousin, Robert de Neubourg, whose father, Henry de Beaumont, 1st Earl of Warwick, was the younger brother of Robert, Count of Meulan. His reason for joining the revolt was that he had brought a suit against Waleran and the king had intervened to protect the boy,[4] which clearly implies that Waleran had already received the Norman lands.

Again, the Cartulary of Préaux relates that after the death of Count Robert, his son Count Waleran, as yet a (little) boy,[5] gave instructions for the destruction of certain houses at St. Germain-Village. But when Waleran came to Préaux on the morrow, Abbot Richard took him into the chapter-house, before his father's tomb and the tombs of his other relations and begged him to allow the house of Eudo the smith, who shod the pack-horses and mules of the abbey, and the house and grange of William Isoret the tithe-collector, where the abbey's tithe was gathered together, to stand. Waleran granted the petition, but not long afterwards the prevôts of Pontaudemer, by order, as they said, of Count Waleran, destroyed, with other houses, those of William Isore and Geoffrey the smith. Thereupon the abbot appealed to the young count, who summoned

[1] Ord. Vit., IV, 438–9. But Orderic does not mention Waleran's lands in England.

[2] On the question whether their father had held the earldom of Leicester, cf. White, *Trans. R. Hist. Soc.*, 4th Series, XIII, 57.

[3] *Ibid.*, XIII, 77–78.

[4] Ord. Vit., IV, 328.

[5] Le Prévost reads "adhuc puer," but Round (probably correctly) "adhuc puerulus," which seems not at all a suitable term for a boy of nearly or more than 14, especially at a time when boys matured early. The same words are used, much more appropriately, of the future Conqueror, when his father sent him to present a gift to the abbey, aged about seven. Le Prévost, *op. cit.*, III, 300. *Gallia Christiana*, XI, Instr. col. 200–1.

one of the prevôts and ordered him to allow those two houses to be rebuilt and to remain undisturbed as alms.[1] Here again is Waleran, who would certainly have objected to being described as a little boy, in enjoyment of his Norman honours, evidently not long after his father's death.

No doubt, however, the twins spent most of their time with Henry at court or in camp; and they naturally remained faithful to the king throughout the fighting of 1118–19.[2] In 1119, at the king's palace in Rouen, Waleran attested, as Count of Meulan, a charter issued by Robert as Earl of Leicester,[3] which proves that both boys were recognised as having succeeded to their father's honours in France and England respectively. In November, 1119, they were with the king when he met Pope Calixtus at Gisors; and they emerged triumphantly from a philosophical discussion with the cardinals, which had been staged to exhibit the learning of Henry's protégés to the guests.[4] In 1120 Waleran, as Count of Meulan, granted to St. Nicaise de Meulan ten pounds from the toll paid by boats on the Seine.[5] In 1121 or 1122 he was with the king at Northampton.[6]

In view of the kindness with which Waleran had been treated by Henry I and the favour which he enjoyed from that monarch, it is amazing to find that no sooner had he been emancipated from royal control than he was drawn into a conspiracy against his patron, on behalf of William Clito, the son of Robert Curthose.[7] This was in 1123, when Waleran was still under twenty. Orderic attributes his action to a desire to distinguish himself in arms[8]; but

[1] *Ibid.*, III, 129. Cf. Round, *Cal. Docts. France*, No. 331.
[2] Ord. Vit., IV, 346–7.
[3] *Recueil des Chartes de St. Nicaise de Meulan* (ed. Houth), No. 3. Haskins, *Norman Institutions*, p. 295.
[4] Will. Malmesbury, *De Gestis Regum* (ed. Stubbs), II, 482.
[5] *Chartes de St. Nicaise*, No. 4.
[6] Farrer, *Outline Itinerary of Henry I*, No. 455.
[7] Ord. Vit., IV, 440–1. Cf. *Annals of Waverley—Ann. Mon.* (ed. Luard), II, 219.
[8] *Ibid.*, IV, 441.

it is clear that the king believed him to have been influenced by his steward, Morin du Pin, whom Henry had appointed his tutor.[1]

In order to gain allies for the coming struggle, Waleran married three of his sisters to powerful Norman barons,[2] Hugh de Montfort, Lord of Montfort-sur-Risle,[3] Hugh fitz Gervase, Lord of Chateauneuf,[4] and William Louvel, Lord of Ivry,[5] who all supported him faithfully in his treason. But the real head of the rebellion was Amauri de Montfort, Lord of Montfort-Amauri in France and Count of Evreux in Normandy,[6] who met Waleran and his fellow-conspirators in September, 1123, at La Croix-Saint-Leuffroi. But the king got wind of the plot and took up arms in October. He attacked and burnt Montfort-sur-Risle and in two days captured the castle with the exception of the keep, which surrendered within a month. This made a breach in the line of rebel castles along the Risle : Pontaudemer, Montfort, Brionne and Beaumont. Hugh himself had ridden off before the siege began, to join Waleran at Brionne ; but the king turned downstream and attacked Pontaudemer, burnt

[1] Ord. Vit., IV, 461–2. Morin had been a benefactor to the abbey of Préaux in the time of Count Robert. Le Prévost, *op. cit.*, II, 491. As steward, he would be the head of the count's household. Stenton, *First Century of English Feudalism*, pp. 73–6. His brother, William du Pin, constantly attests Waleran's charters.

[2] *Ibid.*, IV, 441.

[3] Hugh de Montfort IV was son of Gilbert de Gant (*Cartulaire de St. Ymer*, ed. Bréard, No. 11) by Alice, daughter of Hugh II and stepsister of Hugh III and Robert I (Guil. de Jumièges, ed. Marx, pp. 260, 261).

[4] Hugh fitz Gervase was son of Gervase (of Chateauneuf *jure uxoris*) by Mabel, daughter of Hugh de Chateauneuf by Mabel, daughter of Roger de Montgomery, 1st Earl of Shrewsbury, by Mabel, daughter of William de Bellême. Henry I had intended to marry one of his illegitimate daughters to Hugh, but Yves, Bishop of Chartres, forbade the marriage on the ground of consanguinity (Migne, *Patrologia*, CLXII, Ep. CCLXI). But de Romanet thinks that Gervase was the son, not son-in-law, of Hugh de Chateauneuf, *Géographie du Perche*, p. 145.

[5] William Louvel was son of Ascelin Goel and succeeded to Ivry on the death of his brother Robert (Ord. Vit., IV, 441).

[6] *Ibid.*, IV, 440–1. Amauri de Montfort III was son of Simon I by Agnes, sister and heir of William, 3rd Count of Evreux, and granddaughter of Robert, 1st Count of Evreux and Archbishop of Rouen, son of Richard I of Normandy (*ibid.*, II, 403–4 ; IV, 294).

the town and besieged the castle, which surrendered in six weeks. Then the troops went into winter quarters.

In March Henry resumed hostilities and the royal army besieged Waleran's castle of Vatteville on the Seine. The count and his three brothers-in-law, with the Count of Evreux, succeeded in getting supplies through to the defenders, but on their way back to Beaumont they were intercepted by a royal force at Bourgtéroude on the 26 March, 1124. Waleran charged at the head of 40 men-at-arms, but his horse was riddled with arrows and he was captured, with Hugh fitz Gervase and Hugh de Montfort, whilst the other leaders fled.

In April the king besieged Brionne, which surrendered after a short siege and Vatteville followed suit. Henry then forced Waleran to order Morin du Pin to surrender Beaumont and so completed the conquest of his Norman castles.[1]

Waleran and Hugh fitz Gervase remained in durance at Rouen until September, when the king took them to England and sent Waleran to Bridgnorth. Subsequently he was removed to Wallingford, where he seems to have remained until 1929.[2] In that year Henry sent for Waleran and Hugh to join him in Normandy, where he set them free [3] and gave them back all their lands and castles, except Waleran's castle of Pontaudemer. He kept the count with him in Normandy until the autumn, when they returned together to England and Waleran was completely restored to favour.[4]

Within the years 1129–31 Waleran attested a royal charter at Caen in favour of St. Stephen's in that city [5]; and he granted the church of Beaumontel to the collegiate

[1] *Ibid.*, IV, 442–3, 450, 455–8, 461–3. *A.-S. Chronicle* (ed. Thorpe), I, 375. Henry of Huntingdon (ed. Arnold), p. 245. Robert de Torigny (ed. Howlett), pp. 105, 107. [2] *A.-S. Chronicle*, I, 377.

[3] Hugh made a gift to the priory of Bellomer as a thankoffering, " postea quam de vinculis regis Anglorum exivi." De Romanet, *Géographie du Perche :* Cartulaire, p. 217.

[4] *A.-S. Chronicle*, I, 379. Ord. Vit., IV, 463.

[5] Haskins, *op. cit.*, pp. 94–6.

church of Beaumont.[1] At Rouen, he attested two charters for Fécamp in 1130 or 1131 [2] and a charter for the Bishop of Sées in February, 1131.[3] In May, 1131, he was in his own town of Meulan, and on the last day of the month he gave tithes of fishes and mills to St. Nicaise.[4] Afterwards he rejoined the king and at Arques, where Henry was waiting to cross the Channel at the end of July and beginning of August, Waleran witnessed royal charters of confirmation in favour of Beaumont [5] and Bec.[6] No doubt he accompanied the king to England, for in the same year he attested another royal charter for Sées at Waltham.[7]

Probably Waleran returned to Normandy with Henry I, when the king left England for the last time on the 2 August, 1133,[8] although his name does not appear as a witness to royal charters; but both the twins and their stepbrother, the Earl of Surrey, were present when Henry died on the 1 December, 1135.[9]

It was in 1135 that Waleran founded the hospital of St. Giles at his town of Pontaudemer [10]; and before passing to the new reign, mention may be made here of benefactions to monastic houses which may belong to this period. It was probably before the death of Henry I that the count granted two charters in favour of the abbey of Tiron in Perche, which stood high in favour with Henry I [11]; by one of which he exempted the monks from market-toll (theloneo) and custom in his domains and by the other he gave them 2,000 herrings per annum at Pontaudemer.[12] Again, by a charter issued at Vatteville, in favour of Jumièges, he

[1] *Cartulaire de Beaumont* (ed. Deville), No. III; Le Prévost, *op. cit.*, I, 221. His gift of the tithes of Charmoie (*Cart.* No. XVIII) may be of later date. [2] Round, *Cal. Docts. France*, Nos. 122–3.
[3] Haskins, *op. cit.*, pp. 299–300. [4] *Chartres de St. Nicaise*, No. 5.
[5] *Cartulaire de Beaumont*, No. III.
[6] Round, *Cal. Docts. France*, No. 373. [7] Farrer, *op. cit.*, No. 654.
[8] Robert de Torigny, p. 123. [9] Ord. Vit., V, 50.
[10] Le Prévost, *op. cit.*, II, 553–4. La Roque, *op. cit.*, III, 38.
[11] Round, *Cal. Docts. France*, p. xxxiii.
[12] *Cartulaire de Tiron* (ed. Merlet), Nos. LV, LVI; both assigned by the editor to *c.* 1122. For a discussion of *theloneum* (tonlieu), cf. Fachan, *Finances Féodales*, pp. 43–4, 47–9.

renounced the right to one palfrey every year from the monks for the right of passage of their boat at Meulan.[1] And it was probably in this period that he confirmed the charter of Hugh II, Count of Meulan, in favour of St. Wandrille.[2]

The removal of the old king's iron hand, followed by a disputed succession, enabled the Count of Meulan to assume his proper place at the head of the Anglo-Norman baronage ; and Stephen hastened to secure his support. He gave Waleran the castle of Montfort-sur-Risle,[3] which completed his control of the Risle ; for Hugh de Montfort was still in prison [4] and apparently Waleran thought it better to obtain his brother-in-law's castle for himself than to secure Hugh's release. But the king bid still higher, by betrothing his little two-year-old daughter to the count.[5] This did not evoke any protest from the church, although the parties were within the prohibited degrees ; for Waleran and the child were respectively fifth and seventh in descent from the parents of Gunnor, wife of Richard I of Normandy ; and Bishop Yves of Chartres had attempted to prevent the marriage of Waleran's parents on that ground.[6]

The king is said to have given Waleran the earldom of Worcester on this occasion,[7] but this is an error ; what the count did actually receive was doubtless the city of Worcester, which he certainly held before he was given the earldom.[8]

The Count of Meulan was with Stephen at Westminster

[1] *Chartes de l'Abbaye de Jumièges* (ed. Vernier), No. LVII (1127–42).

[2] Lot, *L'Abbaye de St. Wandrille*, No. 32 (wrongly assigned to *c.* 1183).

[3] This is deduced from the statement (under 1141) that Waleran had held the castle of Montfort since the death of Henry I, Robert de Torigny, p. 142.

[4] Ord. Vit., IV, 463. [5] *Ibid.*, V, 58.

[6] Migne, *Patrologia*, CLXII, Ep. XLV ; cf. Waters, *Gundrada de Warrenne* (2nd ed.), pp. 16–17, and Merlet, *Lettres de St. Ives*, p. 87.

[7] *Chronicon Valassense* (ed. Sommenil), p. 8.

[8] Thus he is styled Lord of Worcester (Domini Wigon. [*sic*]) on his counter-seal. Millin de Grandmaison, *Antiquités Nationales*, IV, Art. XLIX, pl. 2. Henry of Huntingdon states subsequently that the city of Worcester had been given to Waleran by Stephen (p. 282).

when the king held his Easter court there in 1136,[1] but after Easter he returned to Normandy, where the Earl of Leicester was fighting their hereditary enemy Roger de Tosny, Lord of Conches.[2] Before Whitsun Roger seized Vaudreuil, but Waleran marched there from Rouen three days later and recovered it. Two days after Whitsun Waleran attacked and burnt Acquigni, in revenge for which Roger burnt three of his vills. In June the twin earls gave the Count of Blois a hundred marks of silver to come to their assistance, but with little result. However, on the 3 October the Count of Meulan and Henry de la Pomerey captured Roger de Tosny near Vaudreuil.[3]

Waleran must have returned to England in the course of the winter, for when the king proceeded to Normandy in March, 1137,[4] he witnessed a royal charter at Portsmouth.[5] Stephen was at Pontaudemer in June,[6] accompanied by Waleran,[7] who also attested charters issued by the king at other places in Normandy.[8] Shortly before Christmas Stephen returned to England, taking with him the twins and other nobles[9]; and probably it was immediately afterwards that Waleran attested a royal charter at Marlborough.[10]

Early in 1138 Waleran was in the north and drove the King of Scots from the siege of Wark Castle.[11] But his

[1] Round, *Geoffrey de Mandeville*, pp. 262–3. It was probably in April or May, 1136, that Geoffrey of Monmouth dedicated his *Historia Regum Britanniæ* to the Earl of Gloucester and Waleran jointly. Griscom, *op. cit.*, pp. 83–4.

[2] Roger de Tosny descended from the Roger de Tosny who was killed, with two of his sons, in a combat with the twins' grandfather, Roger de Beaumont, during the minority of the Conqueror. Ord. Vit., II, 40, 41.

[3] Ord. Vit., V, 58–9, 64–5, 76–7. Cf. Robert de Torigny, p. 131. Henry de la Pommeraye, who had fought against Waleran at Bourgtéroude (Ord. Vit., IV, 456) and was an assistant constable in the royal household under Henry I (*Liber Rubeus de Scaccario*, ed. Hall, p. 812), was the eldest son of Joslen, lord of Berry Pomeroy (Round, *Cal. Docts. France*, Nos. 1455–6; Ord. Vit., IV, 453).

[4] Ord. Vit., V, 81.

[5] "Apud Portesmut in transitu meo." *Cal. Charter Rolls*, III, 338, No. 9.

[6] Ord. Vit., V, 85.

[7] Round, *Cal. Docts. France*, No. 570. Haskins, *op. cit.*, p. 127.

[8] *Ibid.*, Nos. 292–4, 1055, 1404. Delisle, *op. cit.*, Introduction, pp. 117–19.

[9] Ord. Vit., V, 91.

[10] Round, *Ancient Charters*, No. 21.

[11] John of Worcester (ed. Weaver), p. 52.

power and influence in Normandy made him more useful overseas, and in May he crossed the Channel, accompanied by William d'Ypres. Together they made ineffectual attempts to suppress Roger de Tosny, who had been rashly released by Stephen; and in June an incursion by the Angevins increased their difficulties. In July, Waleran and William marched against the invaders, but the Count of Anjou was warned by Robert de Courcy and retreated without fighting. Baulked of their prey, the king's generals made an unsuccessful attempt to draw the Earl of Gloucester out of Caen. In September Roger de Tosny burnt the Earl of Leicester's town of Bréteuil, but before the end of the year he made peace with the twins, accompanied them to England and was reconciled to Stephen.[1]

It was probably, as I have suggested elsewhere, in the latter part of 1138 that Waleran received the earldom of Worcester, perhaps as a reward for driving the Angevin invaders out of Normandy and for his exertions to pacify the duchy.[2] It must have been shortly after this that he addressed a writ to all his bailiffs and ministers of Worcestershire, directing that the land of the monks of Gloucester at Droitwich should be free from toll and custom.[3] A somewhat similar writ in favour of the monks of Leominster, a priory of Reading Abbey, is addressed to the justices and barons, sheriffs and stewards and ministers and all his faithful French and English of Worcestershire.[4] The difference in the address is striking and suggests that the second writ is of later date and that Waleran's position had risen still higher.

[1] Ord. Vit., V, 108–9, 114–15.

[2] White, *Notes and Queries*, cl. 328; *Transactions R. Hist. Soc.*, 4th Ser., XIII, 72.

[3] *Hist. et Cart. S. Petri de Gloucestria* (ed. Hart), II, 71, 129. According to the List of Donations this was confirmed by Stephen in the time of Abbot Walter de Lacy (*ibid.*, I, 119), who died at the beginning of February, 1139 (*ibid.*, I, 17). The first witness is Aubrey de Vere, the Master Chamberlain, who was killed in a riot in London on the 15 May, 1141 (Matt. Paris, *Chron. Majora*, II, 174), not the 9 May, as I stated in *Trans.*, 4th Ser., XIII, 70: an error which I must have copied (quite inexcusably) from Round, *Geoffrey de Mandeville*, p. 81.

[4] *Monasticon*, IV, 56.

Before the end of 1138 Waleran was back in Normandy, for on the 18 December he witnessed a final agreement at Rouen.[1] On Sunday the 5 March, 1139, he issued a charter at Beaumont-le-Roger, by which he granted the church of St. Nicholas of Meulan to the Abbey of Bec and St. Nicaise de Meulan.[2] It was probably about this time that he wrote to the Bishop of Lisieux, begging him to protect the abbey of Troarn against a claim by Richard and Anselm de Dives : a claim which was heard before the bishop in 1139.[3] But Waleran was back in England before the summer. If he had not already returned, we may suppose that he would come over for the marriage of his stepsister Adeline de Warenne to Henry, son and heir of the King of Scots, who had been restored to the earldom of Northumberland when peace was made between England and Scotland in April, 1139.[4]

Waleran now became the leader of the party opposed to the Chief Justiciar, the great Bishop Roger of Salisbury and his too powerful and wealthy relations ; and in June the twin earls took a prominent part in the arrest of the bishops.[5]

With the Bishop of Salisbury fell his son Roger the Poor, the royal chancellor, and the choice of his successor, Philip de Harcourt, may be regarded as a fresh proof of Waleran's influence ; for the Harcourts were the count's tenants in Normandy, where their seat was close to Beaumont-le-Roger, and Philip had been dean of the collegiate church of Beaumont since 1131 or earlier.[6]

When the empress landed in England in the autumn of

[1] Valin, *Le Duc de Normandie et sa Cour*, pp. 260–1 (No. VI). Haskins, *op cit.*, pp. 91–2.

[2] *Chartes de St. Nicaise*, No. 12, wrongly assigned to 1140 (when the 5 March fell on a Tuesday) by Porée, *op. cit.*, I, 401.

[3] Haskins, *op. cit.*, p. 321.

[4] Simeon of Durham (ed. Arnold), II, 300. According to Orderic, Henry fell in love with Adeline. Ord. Vit., V, 114.

[5] *Gesta Stephani* (ed. Howlett), pp. 46–8. Ord. Vit., V, 120.

[6] There is no doubt that " Philippus decanus," mentioned in Waleran's charter granting the church of Beaumontel to Beaumont, was Philip de Harcourt, although he is not identified by Le Prévost, *op. cit.*, I, 221.

1139,[1] Waleran accompanied Stephen when he hurried to Arundel [2]; and when the king was persuaded to allow his rival to join the Earl of Gloucester at Bristol, he selected the Count of Meulan, with his own brother the legate, to escort Maud.[3] On the outbreak of the Civil War Waleran adhered to Stephen and in November, 1139, his city of Worcester was burnt by Gloucester's troops. Waleran reached Worcester on the last day of the month and hearing that John, son of Harold of Sudeley,[4] had gone over to the empress, retaliated by making a raid on Sudeley, returning next day to Worcester with prisoners and plunder.[5] He then joined Stephen, with whom he was at Salisbury before the end of December.[6]

Early in 1140, apparently in February, the king and the count visited Worcester with a large army; and Waleran, remembering the losses inflicted on his citizens, marched against Tewkesbury, where he burnt the splendid mansion of the Earl of Gloucester.[7]

From Worcester Stephen proceeded to Oxford,[8] and Waleran seems to have accompanied him; for he witnessed a royal charter which almost certainly passed on that occasion.[9] This confirmed the foundation of Alcester Abbey by Ralf the Butler (of the Earl of Leicester),[10] the first three witnesses being the twin earls and their stepbrother, the Earl of Surrey.[11] It may well have been on the same visit

[1] Ord. Vit., V, 121; early in September, according to Henry of Huntingdon, p. 266; on the 30 September, according to Will. Malmesbury, *Hist. Novella*, p. 555; in October, according to John of Worcester, p. 55.

[2] He attests a charter for Reading Abbey issued by Stephen at Arundel. Andrews, *Antiquaries' Journal*, XIV, 10.

[3] Will. Malmesbury, *op. cit.*, p. 556.

[4] Harold of Sudeley and Ewyas was son of Ralf Earl of Hereford, son of Dreu Count of the French Vexin, by Godgifu, sister of Edward the Confessor. A. S. Ellis, *Landholders of Gloucestershire in Domesday Book*, pp. 90–2.

[5] John of Worcester, p. 57.

[6] *Salisbury Charters and Documents* (ed. Jones and Macray), No. 9.

[7] John of Worcester, p. 60.

[8] *Ibid.*, p. 60.

[9] Howlett, *Gesta Stephani*, p. xxxii.

[10] *Monasticon*, IV, 176; *Cal. Charter Rolls*, IV, 482.

[11] Their names are followed by an impossible "H. comite de Wiltes," but the text is known only from an Inspeximus.

that Waleran attested a charter of Stephen in favour of St. Frideswide, Oxford, which must have passed within the limits June, 1139–March, 1140, as it is witnessed by Philip the Chancellor.[1]

Waleran's influence with the king was shown once more in March, when Stephen nominated a new bishop of Salisbury, either in London[2] or at Winchester.[3] Stephen's brother Henry, Bishop of Winchester and Papal Legate, wanted the see for their nephew, Henry de Soilli, but Waleran had selected his protégé Philip de Harcourt, the royal chancellor, and the king appointed Philip[4]; although eventually the legate and the chapter succeeded in preventing him from obtaining possession of the see.[5]

It was probably in this year—1140—that Waleran actually founded and endowed the abbey of Bordesley in his county of Worcester, although the date is given as 1136 by the Annals of Winchcombe[6] and 1138 by the Annals of Burton[7]; and it is quite likely that he had taken some preliminary steps at an earlier date. Unfortunately the foundation charter is missing, but from Stephen's charter of confirmation it appears that Waleran had given his abbey the whole land of Bordesley and the whole demesne land of Bidford, besides the land which the villeins of that vill held.[8] If this was the original endowment of the abbey, as seems probable, it is hardly likely that the effective foundation was much earlier than the king's charter, which may be assigned to December, 1140, or January, 1141. For as it was sealed with Stephen's second great seal, the " R. cancellario " who attests it must be the successor, not the

[1] *Monasticon*, II, 145–6.
[2] *Annals of Waverley—Ann. Mon.* (ed. Luard), II, 228.
[3] John of Worcester, pp. 60–1.
[4] Ord. Vit., V, 123.
[5] Cont. Flor. Wig. (ed. Thorpe), II, 124; *Ann. Wav., loc. cit. Gallia Christiana*, XI, col. 362.
[6] *Monasticon*, V, 407.
[7] *Annals of Burton—Ann. Mon.* (ed. Luard), I, 186.
[8] Harleian, ch. 43, c. 13. Printed by Birch, *On the Great Seals of King Stephen*, pp. 23–4.

predecessor, of Philip de Harcourt [1]; and as Hugh Bigot attests it without the title of earl, it must have passed before the battle of Lincoln.[2] Therefore, as it was issued at Lincoln, it must have been granted either during Stephen's visit before Christmas,[3] or during the siege of Lincoln Castle, which began about the beginning of January, 1141.[4] So we may put the date-limits at December, 1140–January, 1141.[5]

Birch, who dated the charter 1136–47, with a strong probability of *c.* 1144, wrote that "R. the Chancellor is probably Robert de Gant, appointed by the king after his release from imprisonment." [6] However, he does not give any authority for the statement that Robert was appointed after Stephen's release, and as he does not mention any other chancellor after Philip de Harcourt, he probably supposed Philip to have retained the great seal after his abortive nomination to the See of Salisbury. Indeed, Professor Haskins seems to have been under the impression that Philip was still chancellor when he was given the bishopric of Bayeux in 1142.[7] However, in my last paper I pointed out that two charters granted by Queen Maud during her husband's captivity were attested by a certain Ralf the Chancellor.[8] This fact would be compatible with three different theories:

(1) That Ralf succeeded Philip in March, 1140, and was succeeded by Robert on or after Stephen's release.

[1] Birch believed that the 2nd seal was made on the release of Stephen from captivity in 1141 (*op. cit.*, pp. 15–16), but Round showed that it was in use in 1140 and suggested that it was made after the arrest of Roger the chancellor in June, 1139 (*Geoffrey de Mandeville*, p. 51).

[2] Round, *Geoffrey de Mandeville*, p. 56.

[3] Will. Malmesbury, *Hist. Novella*, p. 569.

[4] Stephen collected his army after Christmas (Ord. Vit., V, 125). This would be compatible with the rather vague statements that the siege began "infra Natale" (Henry of Huntingdon, p. 268), "a diebus Natalis Dominici" (Will. Newburgh, I, 39), "in ipsis Natalis Dominici feriis" (Will. Malmesbury, *loc. cit.*).

[5] The earldom of Norfolk must obviously have been created within the same two months.

[6] Birch, *op. cit.*, p. 24.

[7] Haskins, *op. cit.*, p. 129.

[8] White, *Trans. R. Hist. Soc.*, 4th Ser., XIII, 73–4.

(2) That Robert succeeded Philip in March, 1140, but ceased to act when Stephen was captured, and that Ralf was appointed by Maud *ad interim.*

(3) That Ralf was Maud's own chancellor and that when she assumed the reins of government on her husband's capture, she continued to use her own chancellor instead of Robert.

After some hesitation, I reached the conclusion that the first explanation was the most likely and that Ralf had succeeded Philip de Harcourt as the king's chancellor; but I am not at all sure that I put my money on the right horse. For I had overlooked the evidence that the two queens of Henry I each had her own chancellor,[1] so there is a strong presumption that Maud would have her own chancellor. This does not prove that Ralf was the queen's chancellor, as she might have taken over the royal chancellor when she assumed the reins of government on her husband's capture; but it is perhaps more probable that she retained her own. I have found only one other charter of Maud attested by Ralf as chancellor, in favour of Colchester Abbey[2]; and unfortunately there is no clue to the date.

When the battle of Lincoln was fought on the 2 February, 1141, the Court of Meulan was one of the commanders of the royal army; he was also one of the nobles who fled at once when the front was broken by the charge of the "disinherited" and left the king to his fate.[3] Waleran's flight must have been due to panic rather than to treason, for he was one of the three earls who remained faithful to Stephen in his captivity and pledged themselves to fight for him and his heirs; the others being his stepbrother of Surrey and Simon de Senliz, Earl of Northampton.[4] Clearly he remained in England and left it to his twin brother to

[1] Farrer, *op. cit.*, Nos. 28, 42, 178, 296; also pp. 17, 74, 104, 110.

[2] *Cart. St. John of Colchester* (ed. Moore), I, 36–7.

[3] *Gesta Stephani*, p. 70; Henry of Huntingdon, p. 273; Ord. Vit., V, 128; Robert de Torigny, p. 140.

[4] Ord. Vit., V, 130. The earldom of Northampton was claimed by the Empress's uncle, the King of Scots.

defend his interests in Normandy; for when the Count of Blois arranged a provisional treaty with Geoffrey of Anjou at Lent, it was Leicester who obtained peace for himself and Waleran until he should return from England.[1]

Before the end of June the citizens of London rose and expelled the empress, and the queen recovered the city on behalf of her imprisoned husband. The Count of Meulan, his brother-in-law the Earl of Pembroke[2] and his step-brother the Earl of Surrey were amongst the nobles who rejoined the queen, for they attested the charter which she granted in London for Coggeshall Abbey,[3] and which must have passed at that time.[4] At the end of July Waleran was still regarded as a strong royalist, for a clause in the charter which the empress granted to William de Beauchamp at Devizes not earlier than the 25 July, 1141, provided that William should be her liege man against all men, and in particular against Waleran, Count of Meulan.[5]

At length Waleran must have come to the conclusion that Stephen's cause was hopeless; for before the end of 1141 he came to terms with Geoffrey Plantagenet, who confirmed him in the possession of the castle of Montfort-sur-Risle.[6]

It is extremely probable that the count's change of front was connected with his marriage, which probably took place

[1] *Ibid.*, V, 131–2.

[2] Pembroke had married Waleran's sister Elizabeth, previously mistress of Henry I.

[3] *Monasticon*, V, 452. Another witness was Geoffrey de Mandeville, Earl of Essex, who obtained a charter from the queen about this date. Round, *Geoffrey de Mandeville*, pp. 118–20.

[4] Mr. Howlett wrote that the charter was "dated 26 December and given in 1141—for the convent met in August 1142" (*Gesta Stephani*, p. xli), but the date "xxvi die Decembris" is the date of the Inspeximus at Bury St. Edmunds (*Cal. Charter Rolls*, III, 479); and although the *Monasticon* quotes: "Anno 1142, facta est abbatia de Cogeshala . . . Eodem anno convenit conventus apud Cogesalam iij nonas Augusti," this passage is given (with slight variations) under 1140 by Ralf de Coggeshall (ed. Stevenson), p. 11. The foundation of Coggeshall has been assigned to 1137, 1140, 1141 and 1142 (*Monasticon*, V, 452).

[5] Round, *Geoffrey de Mandeville*, pp. 314–15.

[6] Robert de Torigni, p. 142.

in this year; although it may be doubtful whether the marriage (or desire to marry) was a contributory cause or an effect of his break with Stephen.[1] The lady was Agnes, daughter of Amauri, Count of Evreux,[2] and sister of Simon, Count of Evreux, who gave her as marriage portion the barony of Gournay-sur-Marne, derived from her mother (a daughter of the great French house of Garlande),[3] and the Haie de Lintot near Lillebonne,[4] which had been brought into the family by her grandmother, the heiress of Evreux.[5]

In 1141, probably on the occasion of his marriage,[6] Waleran issued a general charter of confirmation of the rights and privileges of St. Nicaise de Meulan,[7] amongst the witnesses being his protégé Philip de Harcourt, who attests as Philip, Dean of Lincoln.[8]

There can be little doubt that Waleran returned to England in the winter of 1141–42 and that it was then that he addressed a formal letter to Simon, Bishop of Worcester, notifying that he had conceded to Bordesley Abbey various lands, the recital of which shows that its estates had grown considerably since the foundation.[9] As the witnesses include

[1] It is attributed to 1141 by Depoin (*op. cit.*, p. 322) and by Houth (*op. cit.*, p. ix); but it must have been earlier if Waleran's eldest son were about 25 in 1166, as stated by Le Prévost (*op. cit.*, I, 208–9). In view of his betrothal to Stephen's little daughter, marriage to another before he broke with the king is unlikely, unless the child was dead.

[2] "Noverit universitas vestra me fundasse abbaciam Sancte Marie de Voto . . . pro anima Almarici comitis ebroicensis patris mei" (*Chronicon Valassense*, p. 49). Cf. Round, *Cal. Docts. France*, No. 311; Depoin, *op. cit.*, p. 320; Robert de Torigny, p. 227.

[3] Depoin, *op. cit.*, p. 320. Cf. *Complete Peerage* (2nd ed.), VII, 738.

[4] *Chron. Valassense*, p. 54.

[5] Somménil, *Origines de l'Abbaye du Valasse*, p. 17.

[6] Houth states definitely that this charter was granted by Waleran on his marriage (*op. cit.*, p. ix). Possibly he took this to be implied by the clause: "Saepe contingere solet ut bene gesta parentum perturbet successio filiorum."

[7] *Chartes de St. Nicaise*, No. 13, dated MCXLI.

[8] As dean of Lincoln he issued a charter in favour of the Knights Templars (*Monasticon*, VI, 820; cf. *Gallia Christiana*, XI, col. 361). Cf. Eyton, *Court, Household and Itinerary of Henry II*, p. 21.

[9] Harl. Ch., 45, I, 30. Printed by Nichols, *History of Leicestershire*, I, App., p. 37.

William de Beauchamp, the two magnates had evidently become reconciled after Waleran joined the empress. In a still later charter Waleran announces that he has founded the abbey and increases the list of donations, besides confirming gifts by other benefactors, including William de Beauchamp.[1] Both these documents are sealed with a seal, on the counter-seal of which Waleran styles himself Earl of Worcester.[2] But it is probable that he had already decided to retire from the perpetual strife in England and entrust his abbey to the patronage and protection of the empress ; for he next attests a charter issued by the empress at Devizes, probably on either the 29 March or the 19 April, 1142,[3] in which she declared that she had founded the abbey.[4] Waleran's name also occurs as witness to another charter of Maud in favour of the abbey,[5] which is probably spurious.[6]

Waleran must have recrossed the Channel in the course of the year, and I have not been able to discover any evidence of his presence in England at any time during the remaining twenty-four years of his life.

It was probably about this time that the Count and Countess of Meulan granted a charter in favour of the monks of Gournay [7] ; and on the 8 December, 1142, Waleran gave the collegiate church of Beaumont to the abbey of Bec,[8] with the assent of its dean, Philip de Harcourt, now Bishop of Bayeux.[9]

During 1143 Waleran seems to have remained inactive ; but he made gifts to the priory of Corneville-sur-Risle, near his castle of Pontaudemer, which was being founded by

[1] Additional Ch., 20419. Printed by Dugdale, *Monasticon*, V, 410.

[2] Cf. White, *Trans. R. Hist. Soc.*, 4th Ser., XIII, 63–4.

[3] When she held councils at Devizes : Davis, *Poole Essays*, p. 189.

[4] *Monasticon*, V, 409 ; Birch, *Fasciculus of the Charters of Mathildis*, No. 14.

[5] Additional Ch., 20420 ; printed by Birch, *Fasciculus*, No. 15.

[6] The names of the witnesses are out of order and include William Cumin, who was probably in the north ; and the seal looks suspicious.

[7] Bertrand de Broussillon, *La Maison de Craon*, pp. 74–6.

[8] *Cartulaire de Beaumont*, No. IV ; Round, *Cal. Docts. France*, No. 370.

[9] Philip became bishop in 1142 ; cf. Robert de Torigny, p. 145.

Gilbert de Corneville,[1] and his name occurs as witness to a charter issued by his cousin, Robert de Neubourg, in favour of Bec.[2]

At the beginning of 1144 Waleran took the field once more. Geoffrey of Anjou had taken the city of Rouen but failed to take the tower; whereupon the Count of Meulan went to his aid.[3]

Geoffrey was now Duke of Normandy and Waleran adhered to him as faithfully as he had previously supported Stephen. He acted as one of Geoffrey's justiciars [4] and attests the duke's charters at Rouen.[5]

In 1144 Waleran issued a charter for the Holy Trinity of Beaumont [6]; and it was probably in the same year that he announced, in a charter for Bec, that he was about to go on pilgrimage to St. James of Compostella.[7] Before starting for Spain he addressed an order to William de Beauchamp, the Sheriff of Worcestershire, in favour of St. Mary of Worcester, in which he refers to his coming pilgrimage.[8] There is, however, no proof of the date of his journey to Compostella,[9] or even that he actually went there; but there is no reason to doubt that he made his pilgrimage and that it was on his return that he founded the chapel of St. James in his castle of Meulan.[10]

[1] Waleran's gifts are known only from the confirmation-charter of the Archbishop of Rouen. Le Prévost, *op. cit.*, I, 546; the date is given as 1114 (? 1141) by La Roque, *op. cit.*, III, 36–7.

[2] Round, *Cal. Docts. France*, No. 380.

[3] Robert de Torigny, p. 148.

[4] Haskins, *op. cit.*, pp. 148, 205, 211; Harcourt, *His Grace the Steward*, pp. 35–6; Delisle-Berger, *Recueil*, I, p. 2, No. 4.

[5] Haskins, *op. cit.*, pp. 152–3, 208. [6] *Cartulaire de Beaumont*, No. VI.

[7] Delisle, *op. cit.*, Introduction, p. 466.

[8] Davis, *Poole Essays*, pp. 170–1. Round (*Dict. Nat. Biog.*) and Davis (*loc. cit.*) took this to refer to the Crusade of 1147; so also Griscom (*op. cit.*, p. 83); but this would not be the normal meaning of "peregrinacio," although the word occurs in connexion with a crusade in *Chartes du Prieuré de Longueville* (ed. Le Cacheux), No. XLV. Davis dates the order 1145; if this is correct, it could hardly refer to the Crusade of 1147.

[9] Assigned to the autumn of 1144 by Réaux, *op. cit.*, p. 206, and Porée, *op. cit.*, I, 341; before 1144 by *L'Art de Vérifier les Dates*, XII, 160–1.

[10] Réaux, *op. cit.*, p. 206; *L'Art de Vérifier les Dates*, XII, 160–1; Millin de Grandmaison, *op. cit.*, Art. XLIX, p. 16; Bories, *op. cit.*, p. 129.

In 1146 Waleran took the cross on Palm Sunday with the King of France, the Earl of Surrey and many other magnates.[1] But the crusaders did not set off for more than a year, and it was probably in the interval that Waleran took part in settling a dispute between the Abbey of Préaux and two knights who claimed certain property at Etreville. A jury of eight having given a verdict in favour of the abbey in the count's court at Brionne, presided over by his cousin Robert de Neubourg and William Fitz Robert, Préaux was given possession of the property. One of the knights having threatened the abbot, he was imprisoned in the tower of Waleran's castle of Beaumont; until another session of the court at Montfort, over which the count presided in person, and at which the culprit agreed to do homage and service to the abbot for the land.[2]

The crusaders set forth in June, 1147. It is generally stated by French writers that Waleran was one of the commanders of the mixed force of English, Normans, Flemings and Germans which sailed from Dartmouth on the 23 May in 164 ships, and at the instance of the King of Portugal, besieged and captured Lisbon from the Moors [3]; but this story may be confidently rejected. He is not even mentioned in the detailed story of the expedition written by a member of the Anglo-Norman contingent, the largest division of the force,[4] or in the brief German account.[5] Now the four leaders of the English troops did not include a single earl or even a baron of any importance: Hervey de Glanville led the East

[1] Robert de Torigny, p. 152. Cf. *Annals of Waverley—Ann. Mon.*, II, 231.

[2] Valin, *op. cit.*, pp. 264–5, No. IX; Le Prévost, *op. cit.*, II, 63. Valin dates this case "avant 1147," but evidently means before July, 1147, as he argues that the knight's journey to Jerusalem which followed the dispute was the second crusade (*op. cit.*, p. 201); but Haskins points out that this was not necessarily the case (*op. cit.*, p. 230), although elsewhere he refers to this case as "a case of 1147" (*ibid.*, p. 173).

[3] Réaux, *op. cit.*, p. 207; Depoin, *op. cit.*, p. 321. Le Prévost, *op. cit.*, I, 208.

[4] Osbern, *De Expugnatione Lyxbonensi* (ed. Stubbs, pref. to *Itinerarium Regis Ricardi*), pp. cxliv *seqq.* [5] Pertz, *Mon. Germ. Hist.*, XVII, 27–8,

Anglian volunteers, Andrew of London [1] the Londoners, Simon of Canterbury [2] the men of Kent, and Saher de Ascelles men from other parts of England. It is impossible to believe that Waleran, an English earl as well as a French count and admittedly the greatest baron in Normandy,[3] would not have been accepted as leader of the whole English force if he had really accompanied it. It may be added that after the capture of Lisbon the English contingent returned home, but Waleran undoubtedly went to the east. So it is much more likely that he accompanied the King of France.

There is no trustworthy record of the count's doughty deeds during the campaign. He is said to have been at Antioch, Jerusalem and Acre, and in all probability he was; but there is no evidence. The crusaders returned in 1149 [4] and Waleran emerges from obscurity on the way home by sea. Approaching the south coast of France, his ship was caught in a tempest and wrecked; but the count and his companions gained the shore by clinging to a couple of planks and some pieces of wreckage.[5]

During the storm Waleran had vowed that if they were saved he would found an abbey of white monks; and in fulfilment of his vow he founded the abbey of Le Valasse in the pays de Caux, in the valley stretching from Lillebonne to Bolbec.[6] This was probably in 1150, but Waleran's first charter, which was attested by Hamon, Abbot of Bordesley,[7] cannot be traced.[8] He endowed the new foundation with the whole of the Haie de Lintot and its appurtenances, and a knight named February who rendered

[1] Cf. Round, *Commune of London*, pp. 110–11.

[2] But Miss Norgate thinks that "Dorobernensis" probably means "of Dover" here. *England under the Angevin Kings*, I, 363.

[3] Robert de Torigny, p. 142.

[4] Robert de Torigny, p. 160; Roger Hoveden (ed. Stubbs), I, 211. The year is given as 1148 in the *Chron. Normanniæ* (ed. Duchesne, *Hist. Norm. Scriptores*, p. 984).

[5] *Chron. Valassense*, pp. 8–9. The shipwreck is said to have taken place in December, 1149, near the mouth of the Rhone. Réaux, *op. cit.*, p. 210.

[6] *Chron. Valassense*, pp. 9 *seqq.*

[7] *Monasticon*, V, 407.

[8] *Chron. Valassense*, p. 52.

20 shillings a year, giving his wife other property in exchange.[1] Agnes confirmed the grant of the Haie de Lintot by a charter in which she announced that she had founded the abbey.[2]

Waleran entrusted the building of the abbey to Hamon, but the abbot did not feel equal to the construction of such a foundation overseas ; and after about a year's negotiations, prevailed on the count to transfer the task to the monks of Mortemer.[3] Waleran thereupon issued a new charter, repeating his gift of the Haie de Lintot and adding the adjoining chapel of St. Marcel, which he obtained from the abbot of Bernai by exchange for the purpose.[4] Then the Empress Maud, who had vowed to found an abbey at her own expense if she escaped from the siege of Oxford in 1142 but had not yet done so, decided, at the suggestion of the Archbishop of Rouen, to co-operate in the founding of Le Valasse.[5]

As might be supposed from this action of the empress, Waleran was still a faithful adherent of the Angevin cause. Early in 1150 Geoffrey Plantagenet resigned the duchy of Normandy to his son Henry [6] ; and the Count of Meulan is found acting as one of the young duke's justiciars.[7] No doubt it was his open support of Henry which roused Stephen to take action against his English possessions, which had been immune from injury during his absence on crusade. In 1150 the king attacked Worcester, and captured and burnt the city ; but he failed to take the castle. Next year Stephen again tried to gain the castle, but his attempt was frustrated by the Earl of Leicester—in what way is not clear. The historian remarks that the city belonged to Waleran, to whom the king had given it to his own hurt [8] ;

[1] *Ibid.*, p. 10. [2] *Ibid.*, pp. 49–51. [3] *Ibid.*, pp. 11–12.

[4] *Ibid.*, pp. 53–5. The first witness is Philip (de Harcourt), Bishop of Bayeux, who had also been the first witness to his wife's charter.

[5] *Ibid.*, pp. 12–13. Maud's charter is lost, but her gifts and those of Waleran were confirmed by Hugh Archbishop of Rouen in 1152. *Ibid.*, pp. 58–60.

[6] Haskins, *op. cit.*, p. 130. [7] *Ibid.*, p. 162, n. 28.

[8] Henry of Huntingdon, pp. 282–3.

but there is no reason to suppose that the count was at Worcester on either of these occasions.[1] Apparently he was quite content to leave his brother to look after his interests in England ; and in Worcestershire itself he could still rely on William de Beauchamp, the hereditary sheriff of the county and constable of Worcester castle.

Meanwhile Waleran continued to divide his time between Normandy and Meulan. His name occurs as a witness to charters issued at Rouen by the duke [2] and jointly by Henry and his mother.[3] At Meulan he gave a house in that town to St. Père de Chartres in 1151,[4] and another house to St. Pierre de Jouziers in 1153.[5] In 1152 his maternal uncle, Ralf Count of Vermandois, died leaving a son and daughter, who became his wards [6] : which may perhaps be taken as a testimony to his good repute.

In 1153 Waleran was seized at a conference by his nephew, Robert de Montfort, who imprisoned him at Orbec ; and as the attempts of the count's vassals to rescue him were fruitless, he was compelled to surrender the castle of Montfort-sur-Risle as the price of his freedom. Next year Waleran took up arms and besieged Montfort, but was put to flight by Robert.[7]

It might be expected that, after the accession of Henry II to the throne of England, Waleran would at last revisit the country in which he had played such a prominent part in his younger days ; but I cannot discover any evidence that he did so. One can only wonder whether there was any political reason for this abstention, or whether his shipwreck in the Mediterranean had given him an invincible aversion

[1] Davis, however, assumes that Waleran was present on both occasions (*Poole Essays*, p. 72) ; and Griscom states that in 1150 the castle was successfully defended by Waleran himself, but that in 1152 Stephen attacked again, this time with success. *Op. cit.*, p. 83.

[2] Delisle-Berger, *op. cit.*, No. XIV* ; Round, *Cal. Docts. France*, No. 109.

[3] Delisle-Berger, *op. cit.*, Nos. XXXV*, XLV*.

[4] Round, *Cal. Docts. France*, No. 1260.

[5] *Chartes de St. Nicaise*, No. 15.

[6] Robert de Torigny, p. 167.

[7] *Ibid.*, pp. 177–8.

from travelling by sea. Even in Normandy he did not take any prominent part in affairs. In the first few years of the new reign he attests royal charters at Argentan [1] and Rouen,[2] including a charter in which the king declares that he and his mother have founded the abbey of Bordesley.[3] In 1157 he is named as one of the magnates present with the royal justices in the court at Rouen [4]; and in the same year he made an agreement with the King of France concerning the rights of the abbey of Gournay, in his wife's honour of Gournay-sur-Marne.[5]

At some date before the death of his cousin, Robert de Neubourg, which occurred in 1159,[6] Waleran granted him the three hundred pounds which he had in Pontaudemer, together with other gifts at Pontaudemer, Brionne and Meulan, in return for which Robert became his man and quitclaimed all matters in dispute between them.[7]

In 1160 Waleran was one of the witnesses to the treaty between Henry II and Louis VII concerning the marriage of their children.[8] When Henry's action in having the marriage celebrated prematurely led to a breach with the King of France, Waleran is said to have sided with the King of France.[9] In 1161 Henry seized the castles of the Count of Meulan and his other barons in Normandy and entrusted them to his faithful followers [10]; and it is possible that the king took advantage of this occasion to confiscate the earldom of Worcester.[11] However, any breach between Henry and Waleran was only temporary; and later he

[1] Delisle-Berger, *op. cit.*, No. XCVIII; Round, *Cal. Docts. France*, No. 299 (1156–9).

[2] Delisle-Berger, *op. cit.*, No. CXXXIV.

[3] Delisle-Berger, *op. cit.*, No. CXVII. [4] Haskins, *op. cit.*, p. 166, n. 58.

[5] Depoin, *op. cit.*, p. 321. [6] Robert de Torigny, pp. 203–4.

[7] Round, *Cal. Docts. France*, No. 338.

[8] Delisle-Berger, *op. cit.*, No. CXLI.

[9] Depoin, *op. cit.*, p. 321.

[10] Robert de Torigny, p. 209.

[11] Waleran's son did not inherit it; but it is doubtful whether Waleran lost it at the beginning of the new reign or in 1161, or whether he retained it until his death. Cf. White, *Trans. R. Hist. Soc.*, 4th Ser., XIII, 59–61.

attested a report issued by the justiciar, his cousin Rotrou, Archbishop of Rouen, relating to the rights of the abbey of St. Evroul.[1]

During his later years Waleran continued to make benefactions to the Church. In 1154 or 1155 he founded a chapel in honour of the Virgin Mary before the gate of his castle at Vatteville.[2] In 1155, at his castle of Brionne, he confirmed the gifts of his predecessors to his grandfather's foundation of Préaux,[3] to which, at uncertain dates, he made additional gifts, including a tithe of the salmon and other fish caught in the Risle, with two days' fishing per annum and a tithe of all incomings at Pontaudemer.[4] He made grants, of doubtful date, to the abbey of Bec [5] and the hospital of St. Giles of Pontaudemer, to which he gave the church of Sturminster.[6] After 1162 he issued charters in favour of the Holy Trinity of Beaumont.[7] In 1165 the count and countess gave a charter at Beaumont in favour of Gournay-sur-Marne, all their six sons attesting.[8] Other benefactions, which I cannot date and which may belong to an earlier period, are the exemption of the canons of Ecajeul from toll, passage and custom,[9] and gifts to the abbey of Lyre, including 2,000 herrings per annum at the beginning of Lent [10]; and he confirmed the abbey of Troarn in all its possessions at Dive.[11]

Naturally Waleran did not neglect his own foundation of Le Valasse, to which he granted two vineyards in the environs of Felins in France.[12] Owing to a quarrel with the monks, he revoked this gift; but after more than a year,

[1] Haskins, *op. cit.*, pp. 218–19.
[2] Lot, *op. cit.*, No. 85. Round, *Cal. Docts. France*, No. 171.
[3] Round, *Cal. Docts. France*, No. 337.
[4] *Gallia Christiana*, XI, col. 835. Le Prévost, *op. cit.*, II, 549.
[5] *Chartes de St. Nicaise*, Nos. 12 bis, 19.
[6] Round, *Cal. Docts. France*, Nos. 241, 243.
[7] *Cart. Beaumont*, Nos. X, XI.
[8] La Roque, *op. cit.*, III, 1621.
[9] *Cal. Charter Rolls*, III, 310.
[10] Guéry, *Histoire de l'Abbaye de Lyre*, p. 119.
[11] Sauvage, *Histoire de l'Abbaye de Troarn*, p. 166.
[12] Somménil, *Origines*, pp. 47–8.

at the instance of the empress and his wife, he relented and repeated the gift in perpetuity.[1]

He also divided a vineyard at Meulan (apart from one arpent which he had given to William de Hangemer) between the monks of Beaumont and those of Le Valasse, the former having three arpents and the latter all the rest.[2] By the same charter he gave Le Valasse a burgess in the town of Pontaudemer, who might act as host to the monks and attend to their business.[3] Waleran also granted to Le Valasse five thousand herrings per annum, to be received by the monks from his steward at Pontaudemer on the first Sunday of Lent.[4] He also wrote a letter to the empress on behalf of the abbey, at some time after the accession of Henry II [5]; and a later letter, begging her to maintain the abbey and placing all his alms in her hands,[6] which was probably written when he was about to retire to the cloister.[7]

In 1166, no doubt aware that his end was approaching, Waleran became a monk at Préaux and died there [8] on the 9 or 10 April,[9] twenty days (it is said) after his admission.[10]

Our only knowledge of Waleran's appearance is derived from the elegy written by Stephen of Rouen, who describes him as Paris in face, Nestor in stature; from which it may perhaps be deduced, allowing for poetic licence, that he was tall and handsome. The poet goes on to liken his hero to Ulysses for counsel and Hector in war, Crœsus for riches, Quintilian in lawsuits, Cicero for eloquence and Vergil

[1] *Chron. Valassense*, p. 23.

[2] *Ibid.*, p. 117. His son Robert added a parcel of land in Meulan, on which the monks of Le Valasse might build a house in which they could stay to look after their vines. Somménil, *L'Abbaye du Valasse*, p. 23.

[3] *Chron. Valassense*, p. 117.

[4] *Ibid.*, p. 118. His son Robert added another thousand herrings, and subsequently granted a thousand eels, to be received at Brionne. Somménil, *L'Abbaye du Valasse*, p. 23.

[5] *Chron. Valassense*, pp. 83–4.

[6] *Ibid.*, p. 119.

[7] As Somménil suggests. *Origines*, p. 63.

[8] Robert de Torigny, p. 227.

[9] The date is discussed in the *Complete Peerage* (2nd ed.), VII, 738.

[10] *Gallia Christiana*, XI, col. 838.

himself for verse.[1] For the opposite point of view we have the speech which Henry of Huntingdon puts into the mouth of the Earl of Gloucester before the battle of Lincoln, according to which the count was crafty, deceitful, vicious and slothful, a braggart, boastful in speech and cowardly in action, the last to join in combat and the first to withdraw, late in the fight and swift in flight.[2]

Waleran was certainly far better educated than most of the barons of his time. On the one hand there is the story of the debate between the twins and the cardinals, which certainly implies some learning, even if the boys had been carefully coached for it [3]; on the other, there are the lines of Stephen of Rouen which imply that Waleran himself wrote verse, although unfortunately all his Vergilian masterpieces have perished.[4]

So far as we can judge from his career, Waleran did not possess any talents either as a statesman or as a general. He appears rather as an "arch-mediocrity," who owed his prominence to his rank and wealth and vast estates and powerful connexions. On the other hand, there is nothing to throw any doubt on his courage as a soldier, apart from his flight at Lincoln, when he shared in a general panic.

On the whole, he compares not unfavourably with his contemporaries. The one serious stain on his record is his

[1] *Le Dragon Normand et autres Poèmes d'Etienne de Rouen* (ed. Omont), p. 190; *Chronicles of Reigns of Stephen, Henry II and Richard I* (ed. Howlett), II, 766–7.

Henry of Huntingdon, pp. 269–70.

[3] Cf. Depoin, *op. cit.*, p. 319. The story of this philosophical discussion tallies well with Geoffrey of Monmouth's poetical statement that, when he was a child, Mother Philosophy took him on her lap and instructed him in the subtleties of her knowledge (*op. cit.*, p. 86). The fact that Geoffrey joined Waleran with the Earl of Gloucester in the dedication of his history, although doubtless due in part to his position at the head of the Anglo-Norman nobility, may fairly be taken to imply that the count was interested in literature.

[4] It is not likely that Waleran was in any way responsible for the invention of heraldry, but the chequered shield shown on the seal on which he is styled Lord of Worcester, and which was therefore engraved within the years 1136–8, is, to the best of my knowledge, the earliest evidence of the existence of heraldry in France, Normandy or England.

gross ingratitude to Henry I ; but it must be borne in mind that he was very young at the time and may well have been influenced by those who were older and even less wise than himself. Nor is it impossible that he was influenced by the fact that William Clito was undoubtedly the true heir to Normandy ; and Waleran may well have felt sympathy for the young heir striving to recover his rightful inheritance.

In the civil war he served Stephen loyally year after year, and remained true to his cause when nearly all the other magnates deserted it after the battle of Lincoln. When at length he abandoned the king, he did not desert to the enemy and fight against his former master, but retired to Normandy and apparently ceased to take any further part in the struggle. In fact, there is no evidence that he was ever in arms against Stephen, or even against his officers, except when he helped Geoffrey of Anjou to take the Tower of Rouen : which led to the final pacification of the duchy.

Having once joined Geoffrey and the empress, Waleran remained faithful to them, if not active in their cause, and made no attempt to intrigue with the other side. Indeed, if a study of his career yields a general impression of lack of achievement, this is to some extent a testimony to his honesty. Had he been an unscrupulous scoundrel, who played only for his own hand and offered himself in turn to the highest bidder, like Geoffrey de Mandeville,[1] he could have attained far greater power and might even have aspired to the rôle of king-maker.[2]

By his wife Agnes, Waleran left six sons and one daughter.[3] His body was buried at Préaux, by those tombs

[1] Round, *Geoffrey de Mandeville, passim.*

[2] Le Prévost takes a much more unfavourable view of his character : " Un bel esprit sur la loyauté duquel personne n'avait pu compter et qui, malgré l'étendue et l'importance de ses domaines, n'avait joué qu'un rôle fort misérable dans les transactions politiques de son époque." Le Prévost, *op. cit.*, I, 209.

[3] For his children, see the *Complete Peerage* (2nd ed.), VII, 738–9.

of his ancestors to which Abbot Richard had taken him nearly fifty years before, where burnt the lamp which Waleran himself had endowed.[1] So Waleran of Meulan slept with his fathers and Robert his son ruled in his stead.[2]

[1] *Gallia Christiana,* XI, col. 835.

[2] Owing to an extraordinary slip by Eyton (*op. cit.*, p. 243), Robert has been split into two persons, a father and son of the same name, and this mistake was copied by J. H. R[ound] in the *Dict. Nat. Biog.* I pointed out and explained the error in *Notes and Queries,* CXLVII, 101. Robert adhered to John and the King of France seized Meulan and the Norman baronies. His three sons predeceased him, and it was believed until recently that the representation of the family passed to his daughter Mabel, Countess of Devonshire (Stapleton, *Mag. Rot. Scacc. Norm.*, II, cciii) ; but Mr. L. C. Loyd has discovered that Robert's eldest son Waleran, who was slain on crusade, left a legitimate son, from whom descended the barons of Courseulles (*Complete Peerage,* 2nd ed., VII, 741–2). This Waleran married Margaret, daughter of Ralf de Fougères, a great Breton baron (*Cart. Beaumont,* No. CCLV), and their descendants, besides the Norman barony of Courseulles, granted to their son Ralf by St. Louis in 1255 (*Cart. Normand,* ed. Delisle, No. 536), held 100 livres of *rente* at Fougères, until Ralf de Meulan sold it in 1282 (*Cartulaire de la Seigneurie de Fougères,* ed. Aubergé, No. XVI).

MATERIALS FOR THE HISTORY OF THE BENTIVOGLIO SIGNORIA IN BOLOGNA

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In 1446 the dominant faction in Bologna, bereft of a head by the murder of Annibale Bentivoglio, invited Sante, an illegitimate scion of the house, to throw up his post in the Florentine wool-trade and assume the leadership of the city. For the next sixty years Sante and his successor Giovanni II exercised an ascendancy in Bologna which entitles them to a place among the more famous despots of the Italian Renaissance. The Bentivoglio Signoria is in essentials a typical outcome of the nation and age. Constitutionally, the position of its holders was even more ambiguous than that of the majority of their contemporaries. Like the Medici, they were in law, not despots but private citizens. The system by which their ascendancy was maintained mingled terrorism with beneficence. The coming of Sante followed upon a faction fight which brought death and exile upon the rival family of Canetoli, and in the course of years fresh rivals arose to suffer a like fate. The fullness of life in Bologna was a monopoly enjoyed by those stamped with the political hall-mark of *bentivolesca*. On the other hand, Bologna underwent a material and spiritual transformation under Bentivoglio auspices. Narrow and muddy lanes encumbered with wooden shanties, gave place to paved streets, arcades of stone and brick and open squares. Corn was stored in the Bentivoglio granaries and sold to the citizens at moderate prices in times of scarcity. The Renaissance came to Bologna, enhancing her beauty, widening

the outlook of her citizens, and stimulating them to artistic and intellectual effort. Peace and order reigned in the countryside. The intimate relations of the Bentivogli with other ruling families provided the Bolognese with festivities at home, ostensibly for the entertainment of visitors, and with opportunities for advancement throughout Italy. In all these ways the Bentivogli conformed to the common pattern of fifteenth-century Italian despotism. The Bentivoglio Signoria, however, would be less representative if it were not also distinctive ; it has a strongly marked individuality which is an expression of the history and genius of the people of Bologna. In the great days of the commune the legal tradition enshrined in the university had been an incentive to precocious constitutional development.[1] Although the early fifteenth century was a period of decadence for the university, the great legal families of Bologna still dominated her political life. Native lawyers were quick to devise means by which the traditions of Italian public law could be adapted to the interests of the city-state. They distinguished between the authority of the papacy as suzerain of Bologna, and the inherent right of the people to govern themselves even while they formed part of the States of the Church. They claimed for the sovereign people the right to delegate its powers to a magistracy or an individual. They were alive to the advantages to be won from the recognition of the commune or its chief citizen as a Vicar of the Church, and to the opportunity which the vicariate afforded of uniting the powers belonging to commune and suzerain in a single hand. Thus the peculiar

[1] The monopoly of political power by the *popolo* organised in military and trade gilds, dates from 1228, more than fifty years before the capture of the Florentine government by the *arti*. Cf. Gaudenzi, *Gli statuti delle società delle armi e delle arti in Bologna*, Bullettino dell' Istituto storico italiano, vi (1888). In the *Ordinamenti sacrati e sacratissimi* promulgated in Bologna in 1282–4 under the inspiration of Rolandino Passegeri, Florentines attending his lectures found a model for the Ordinances of Justice. Cf. *Monumenti istorici pertinenti alle provincie della Romagna*, Serie I, *Statuti*, ed. Gaudenzi (1888), and V. Vitale, *Il dominio della Parte Guelfa in Bologna*, pp. 37–9, Bologna, 1901.

constitutional framework of the Bentivoglio supremacy owes much to the Bolognese lawyer, with his capacity for constitution-making and his ingenuity in bringing the legal traditions of the past into the service of present political needs.[1]

Socially and economically Bologna, as compared with Florence or Venice, was small and poor; her civilisation was predominatingly medieval. The part which she played in commerce was modest; her chief wealth was derived from land; taxes on mills and sales of land, and tolls levied on the produce of the *contado* form the most important items in her revenue. Within the city there was no one class or party strong enough to stand alone. When faction raged most fiercely the dominant Guelfs alternated between exiling the Ghibellines and permitting them to return in order that they might be taxed. No sharp distinction was made between the greater and the lesser gilds; four of the *arti* were indeed recognised as belonging to the nobility, but members of the Bentivoglio family, while represented among the noble *arte dei notai*, were also enrolled among the butchers on the eve of the Signoria.[2] Thus circumstances combined to render faction a matter of persons rather than of principles, and to place the destinies of the city in the hands of a ring of families in which characteristics of the feudal aristocracy mingled with those of the bourgeoisie. The Bentivogli exercised their authority in co-operation with other citizen families—lawyers, bankers, silk-merchants—whom it was necessary to consult and placate. Yet civilisation emanated from the court rather than from the city. As a patron of the arts, Giovanni II was prince rather than citizen. A *condottiere* and the friend of *condottieri*, he approximated in

[1] For the public law of the Renaissance and its debt to both Roman and medieval law, cf. F. Ercole, *Impero e papato nella tradizione giuridica bolognese e nel diritto pubblico italiano del Rinascimento*, Atti e memorie della R. Dep. di Storia Patria per Romagna, Serie IV, Vol. I, Bologna, 1911. Since published in *Dal Comune al Principato*, Florence, 1929.

[2] F, Bosdari, *Il Comune di Bologna alla fine del secolo xiv*, p. 16, Bologna, 1914. Bosdari, *Giovanni I Bentivoglio, Signore di Bologna*, p. 202, Atti e memorie, *op. cit.*, Serie IV, Vol. V (1915). Vitale, *op. cit.*, p. 57.

his position and outlook to the lordlings of Romagna rather than to the Medici. The Signoria stood midway between a North Italian despotism and the primacy of an individual citizen in a Tuscan republic. Geography is yet another element which gives character to the Bentivoglio Signoria. The Via Emilia ran through Bologna, linking the cities of Lombardy with those of Romagna and the Adriatic; the Bolognese Apennines were traversed by a highway into Tuscany. Owing to the admirable fighting material provided by the rural communities of the hill districts the military strength of the State was by no means negligible. Thus, throughout the fifteenth century, Bologna was at once the buffer and the channel of communication between north and south. The Dukes of Milan having tried and failed to absorb her, were determined to keep her within their sphere of influence. Florence, with her trading interests on the Adriatic coast and a frontier that touched Bologna in the Apennines, was as deeply concerned as Milan in her destinies. The rulers of Bologna were, in fact, generally recognised as holders of a key-position. Alfonso II of Naples, on the eve of the French invasions, went so far as to tell the Florentine envoy that on Giovanni Bentivoglio's attitude depended the success or failure of Charles VIII's Italian expedition.[1] Above all, Bologna is distinguished by her peculiar relation to the papacy. Papal suzerainty was a permanent factor in her history. She might drive out papal legates or reduce their authority to a shadow, but rebellion against the Church was at best a necessary evil. The first aim of every government was to regularise its position with regard to a power which it recognised as supreme in matters temporal and spiritual. For all this, the citizens were fiercely jealous of their liberties, while the popes, from Martin V onward, aimed at the establishment of direct papal rule in Bologna. Amid the competing

[1] Filippo Valori to Piero dei Medici, Terracina, 9 October, 1494. Desjardins-Canestrini, *Négociations diplomatiques de la France avec la Toscane*, Vol. I, pp. 457–61.

claims of the free republic and the papal monarchy, the supremacy of the Bentivogli was established and maintained. It was a compromise which both parties accepted, and both looked upon as something less than ideal.

Turning from the general character of the Bentivoglio Signoria to the materials available for its study, there are in the first place the chronicles. Few cities have so rich a collection as Bologna and few collections are in such a state of confusion.[1] Where learning abounded and literary fame was coveted the incentive to write history was strong. Those who lacked the ability to produce chronicles of their own were tempted to appropriate to themselves the work of others. Chroniclers borrowed from one another and embodied earlier material in their texts ; entire chronicles were stolen, by the substitution of the name of the owner for that of the author. A medley of overlapping versions remains to confound the researcher. For the Bentivoglio period the most important sources are two chronicles in process of publication in the Muratori collection under the title *Corpus Chronicorum Boniensium*.[2] They are the fountain-heads from which practically all other chronicles of the period are derived. Both are composite works, showing signs of various contemporary hands in the course of the fifteenth century. The title to the manuscript of Chronicle A (Bologna, Biblioteca Universitaria, MS. 431) ascribes the authorship to a member of the Ramponi family, but the attribution is almost certainly false. Giacomo da Varignana, writing at the end of the fifteenth century, is the editor rather than the author of Chronicle B (Bologna, Bib. Univ., MS. 432). Chronicle A ends in 1471 and Chronicle B has only three brief entries after that date. All three relate to incidents in the personal history of Giovanni Bentivoglio —his purchase of horses from Spain and Barbary, and

[1] Professore Albano Sorbelli (*Le croniche Bolognese del secolo xiv*, Bologna, 1900) has done much to bring order out of chaos.

[2] Muratori, RR. II. SS., Vol. XVIII, Pt. 1, new edition, ed. Sorbelli. In progress.

the building of the tower of the Bentivoglio palace—a fact which suggests some close connection between Varignana and the first citizen of Bologna. Chief among the unpublished sources is the *Storia universale* of Fileno della Tuata (Bologna, Bib. Univ., MS. 1439). This was begun in 1493; three years later the author embarked upon an abridged edition which, as regards the fifteenth century, is practically identical with the original; he continued it until within a month of his death on 19 March, 1521. In the opening sentence of the earlier version the name of Marcantonio della Tomba is substituted for that of Fileno della Tuata, but later entries, in which Fileno speaks of himself as the author, are left untouched. There are several manuscripts of the later version and all ascribe the authorship to Niccolò Scadinari. He was a cleverer thief than della Tomba and was careful to alter all passages in the chronicle which betrayed Fileno's authorship; owing to the existence of the earlier version his sin has found him out.[1] Fileno bases his chronicle upon Chronicle A of the Corpus, but from the middle of the fifteenth century it reflects the independent view of the author. A member of a merchant family living in the Via Galliera, Fileno was a man of education and sound judgment, favourably but by no means uncritically disposed towards the Bentivoglio régime. His standpoint throughout is that of the citizen; he is appreciative of the benefits which the Bentivogli conferred on Bologna, but he becomes definitely hostile to them when their rule is maintained at the cost of the lives and pockets of the citizens, and in the face of the spiritual censures of the papacy. Giacomo dal Poggio's *Annali della città di Bologna* (Modena, Biblioteca Estense, H. 3, 1. I, 398) is the work of an enthusiastic adherent of the Bentivogli. A sixteenth-century writer, Sansovino, describes him as Giovanni II's secretary and fathers upon him the legend that the first Bentivoglio was

[1] The chief manuscripts of the "Scadinari" version of Fileno della Tuata's chronicle are Bologna, Bib. Univ., 1438, and Bib. Comunale, 70–71 and 99–100. Cf. Sorbelli, *op. cit.*, pp. 241–68.

the son of King Enzo and a Bolognese girl named Lucia da Viadagola, whom Enzo in his faltering Italian wooed with the words, *Ben ti voglio.*[1] I have not found the story in the original manuscript, nor other evidence to show that Poggio acted as Giovanni II's Secretary. As other writers, who ascribe the story to Poggio, cite Sansovino as their authority, it is difficult to estimate the worth of his information. Poggio, on his own showing, wrote a miscellany culled from "many chronicles, books and writings, as well Latin as Italian" which he had in his possession. His history is in fact based on the Corpus chronicles, but from 1466 until his last entry in June, 1506, he writes as an eyewitness, and as a participant in Bentivoglio triumphs. The *Proemium* is addressed to "my excellent lord Messer Annibale de Bentivogli, now most worthy Gonfaloniere di Giustizia in our noble city, son of the most illustrious lord Messer Giovanni II, sole light and splendour of our fatherland." It must have been written during Annibale's tenure of office in November and December, 1489.[2] Among other chronicles of considerable importance for this period is MS. No. 1841 in the Biblioteca Riccardiana at Florence, described as *Cronaca Bolognese di Marcantonio Bianchini*, which continues Chronicle A of the Corpus for the years 1464–1535. Another chronicle bearing the name of Bianchini (Bologna, Bib. Com., 79) and the chronicle of Floriano degli Ubaldini (Bologna, Bib. Univ., 430) contain valuable material for the last years of the Bentivogli and their struggle with Julius II. Three further contemporary works must be mentioned, all of which are in print. The Cronica *gestorum ac factorum memorabilium civitatis Bononie* by the learned and conscientious Dominican, Fra Girolamo Borselli, ends with his death in 1497.[3] The

[1] F. Sansovino, *Origine e fatti delle famiglie illustri d' Italia*, pp. 171–2, Venice, 1582.

[2] A manuscript entitled *Cronaca di Bologna di Giacomo Poggi Bolognese* (Bologna, Bib. Univ., 1491), contains a version of the Modena manuscript for the years 1466–94.

[3] Muratori, RR. II. SS., Vol. XXIII, Pt. 2, new edition, ed. Sorbelli, 1929.

use which he makes of the Dominican archives and other sources show the methods of the historian applied to the form of a chronicle. The *Diario bolognese* by Gaspare Nadi, Giovanni II's master-mason, is written from the standpoint of a servant of the Bentivogli.[1] It is valuable as a record of the building operations, the weddings and the tournaments of their most splendid years. Galeazzo Marescotti's narrative of " how Annibale Bentivoglio was captured and brought out of prison and afterwards killed and his death avenged " is an epic of Bolognese *virtù* rather than a chronicle.[2] It tells the story of three stirring years (1443–6) in which the author played a leading part, first in rescuing Annibale from the hands of Francesco Piccinino and setting him in the first place in Bologna, and then, after Annibale's murder, in re-establishing the Bentivoglio Signoria in the person of Sante.

After the chroniclers come the Renaissance historians. The works of Fra Leandro Alberti,[3] Pompeo Vizzani,[4] Giovanni Francesco Negri [5] and the monumental compilation of Antonio Francesco Ghiselli [6] bear witness to the patriotism and the erudition of Bolognese scholars from the sixteenth to the eighteenth century. The greatest among them is Fra Cherubino Ghirardacci of the Augustinian convent of San Giacomo ; he may fitly be described as the Guicciardini of Bologna. Less sophisticated than Guicciardini and without his practical experience of politics, Ghirardacci rivals the Florentine in his width of outlook, the thoroughness of his research and his determination to write true history. Although the greater part of his *Historia di Bologna* was written in the last quarter

[1] Ed. Ricci and Bacchi della Lega. *Scelta di curiosita letterarie inedite o rare. Dispensa,* 216, Bologna, 1886.

[2] *Cronica,* ed. Guidicini from a manuscript in Bib. Comunale, Bologna, 1869.

[3] *Historia,* Bologna, Bib. Univ., MS. 97.

[4] *Dieci libri della storia della sua patria,* Bologna, 1602.

[5] *Annali della patria,* Bologna, Bib. Univ., MS. 1107.

[6] *Memorie antiche manoscripte di Bologna raccolte e accresciute sino a tempi nostri,* Bologna, Bib. Univ., MS. 770.

of the sixteenth century, for the period of the Bentivogli he embodies a living tradition which justifies the inclusion of Part III of his history in the new edition of Muratori.[1]

The Archivio di Stato of Bologna has no Bentivoglio papers; their disappearance is presumably among the disasters arising from the destruction of the Bentivoglio palace in 1507. In default of the private correspondence of the *Signori* the documents of the Bolognese archives relate chiefly to the duller and more formal aspects of government. The *Liber Partitorum* contains the acts of the chief magistracy, the *Sedici Riformatori*, from 1450 onwards. It is a mine of information on public finance, building operations, university affairs and all the miscellaneous administrative business which came before the *Sedici* day by day. A collection of *Provisioni e Riformagioni*, chronologically arranged by means of a card index, is a guide to legislation. The trials for conspiracies and outrages, which play a prodigious part in the life of the city, can be read in the *Atti* of the Podestà and Capitani. In the *Diritti del Comune* are a valuable collection of papal capitulations, including the *capitula* of Nicholas V in their original form. This important document is not included in Theiner's collection, although he gives the modifications introduced into the settlement by Paul II.[2] Nicholas V's capitulations are the constitutional basis of the Bentivoglio Signoria; as late as the eighteenth century they were cited as the guarantee of Bologna's *governo misto*, in which papal autocracy was tempered by the rights of the citizens.[3] The same series contains many documents relating to the dominion, defining its boundaries when these were matters of dispute with neighbouring powers, and dealing with the rights and duties

[1] RR. II. SS., Vol. XXXIII, Pt. 1, ed. Sorbelli, 1932.

[2] Theiner, *Codex diplomaticus dominii temporalis S. Sedis*, Vol. III, No. 384. Nicholas V's *capitula* are given in an incomplete Italian version in *Corpus Chronicorum Bononiensium*, *op. cit.*, Vol. IV, pp. 145–52.

[3] Comelli, *Il governo misto in Bologna*. Atti e memorie, *op. cit.*, Serie III, Vol. XXVII, 1909.

of rural communes. Considerable diplomatic material exists in the series *Ambascerie e Commissariati*, in two series of letters, *Lettere al Comune* and *Lettere del Comune*, with card indexes, and in a valuable *Registrum Litterarum* in eight volumes for the years 1475–1513. These check and supplement the private letters from the Bentivogli and other prominent Bolognese which are to be found in the archives of Florence, Milan and Modena. For the Bentivogli, as for their fellow-rulers, personal correspondence with the leaders of the Italian political world, and reports from confidential agents at the principal courts formed an essential element in the conduct of affairs of State. In the Milanese archives are forty portfolios labelled *Potenze Estere, Romagna*. They are in chronological order but uncatalogued; a large part of their contents relate to Bologna. When a crisis occurs in the city it is by no means uncommon to find letters to the Duke of Milan on the subject from members of the Bentivoglio family, from the papal legate, from the *Sedici Riformatori* and from several of the leading citizens. If the matter becomes serious a Milanese agent is sent to Bologna, and reports almost daily to his government on the question of the moment and on the general temper of the city. Almost as considerable is the correspondence relating to Bologna in the Florentine Archives in the series *Medici avanti il principato*. For over fifty years Medici and Bentivogli exchanged letters on a wide variety of topics, addressing one another, according to their respective ages, as "father" or "brother" or "son." The help given to Florence by Giovanni Bentivoglio during the Pazzi War; the appointment of a professor at Pisa or a Podestà at Bologna; the recovery from the Monte in Florence of the dowry of a Florentine girl who had married in Bologna; commendation to Lorenzo's good offices of a party of Bolognese who are going to Florence for the festivities of S. John Baptist's day—these, taken almost at random, are typical examples of the matters with which the letters deal. Another important series is the Bentivoglio-Este correspon-

dence in the Archivio di Stato of Modena.[1] A firm friendship united Giovanni Bentivoglio and Ercole d'Este, Duke of Ferrara, and the letters which they exchanged are intimate. Lastly, the Venetian Archives have something to contribute in the instructions of the Republic to their representatives in Bologna, contained in the *Secreta del Senato*. In all these collections there is, of necessity, much that is merely formal, much that is trivial. Nevertheless, patient study of them yields historical material of considerable value. They illustrate stage by stage the part played by Bologna in Italian politics; they throw light upon various aspects of her social and political life, and, not least, upon the personalities of her leading citizens.

Such then is a brief indication of the materials which a student of the subject may expect to find. It remains to consider how far their study bears fruit which is of more than local interest. I should say, first, that the Bentivoglio Signoria presents a constitutional régime which is without parallel in other Italian cities. It brings into high relief the abiding significance of papal suzerainty in the States of the Church; it shows the vitality of communal institutions at as late a period as the fifteenth century, vitality which manifests itself both in the charters of rural communes and in constitutional development within the city; it indicates the strength of the forces making for the emergence of the city despot, under circumstances which appear, at first sight, unfavourable to his rise. The capitulations of Nicholas V placed the government of Bologna under the dual control of the papal legate and the city magistracies. This involved formal recognition on the part of the papacy of the communal constitution as it had been reorganised in the years following the revolution of 1376. From the day when Bologna drove out Gregory XI's repre-

[1] *Carteggio dei principi esteri.* Cf. Dallari, U., *Carteggio tra i Bentivoglio e gli Estensi dal* 1401 *al* 1542 *esistente nell' Archivio di Stato in Modena*, Atti e memorie, *op. cit.*, Serie III, Vols. XVIII and XIX, 1902, for a catalogue of the letters with an analysis of their contents.

sentative and returned to her "state of liberty," the *Gonfalionere di Guistizia* and eight *Anziani* had been the official lords of the city, surrounded by every outward sign of dignity. With them were associated the *Gonfalonieri del Popolo* and the *Massari dei Arti*, representing in a somewhat different form the political authority of the old military and trade gilds. The year 1393 saw the institution of a body peculiar to Bologna, the *Sedici Riformatori*. Ere long, membership of this new magistracy was confined to the leading Bolognese families and it gradually concentrated effective authority in its hands. Its place in the constitution may be gauged by the name by which it was generally known—*Il Regimento*. Its rise to power marked the capture of the commune by the patrician class. The authority and functions of all these bodies were explicitly recognised in the capitulations of 1447. They set a seal upon half a century of constitution-making and formed a charter of liberties to which appeal could be made in vindication of Bologna's right to self-government. At the same time the pope was at pains to secure for himself and his representative the lion's share of authority in the new régime. The terms in which he rejected the proposal that the officials of the commune should swear fealty to the *Gonfaloniere di Guistizia* as well as to the legate are indicative of his view of the constitutional position. "Quo vero ad juramentum prestandum in manibus vexilliferi justitie non placet, quia esset dare duo capita in uno regimine." [1] The legate is, by the capitulations, assigned a double rôle in Bologna; he is at once the partner of the citizens in the government of the commune, and their overlord as the representative of papal suzerainty. The true nature of a diarchy, however, only reveals itself in practical working. To follow the different interpretations and adaptations to which the settlement of 1447 lent itself is to write the history of the Bentivoglio Signoria in its constitutional aspect. Here it

[1] Capitula. PP. Nicolai, V, § 13, 24 August, 1447. Archivio di Stato, Bologna, Diritti del Comune.

must suffice to say that, despite the supremacy which the capitulations gave to the legate, it proved in practice that, provided the *Sedici* were united under capable leadership, they were the senior partners of the association. As the ascendancy of the Bentivogli established itself, the position of the legate justified Pius II's description "Legatus qui verius ligatus appellari potuit." [1] Under such circumstances he had little inducement to remain in the city, and his place was usually filled by a lieutenant who became the passive instrument of the *Sedici* and its chief. Thus the cause of Bolognese independence was bound up with the increased authority of the Bentivogli, and popular opinion sanctioned the growing approximation of their position to that of official *Signori*. Their constitutional evolution can be traced stage by stage during the latter half of the fifteenth century. Although Sante's influence in the *Sedici* was paramount, constitutionally he was an ordinary member taking his turn with the other members as *priore* for a week at a time. The capitulations of 1466 instituted a *Sedici* of twenty-one members of whom ten held office for one half of the year and ten for the other; Giovanni Bentivoglio alone was given a permanent seat. In 1474 Sixtus IV conferred a quasi-hereditary character on the Bentivoglio supremacy by recognising the right of Giovanni's son Annibale to succeed him "nel primato del Senato." [2] From the first the Bentivogli were assigned a regular income from the revenues of the city, and in 1495 they received an imperial grant of the right of coinage. Fileno della Tuata, writing of the year 1500, describes the city of Bologna as being "under the rule of the magnificent house of Bentivoglio although in the name of the Church." He says that it was the practice for some two hundred citizens to assemble at Giovanni Bentivoglio's house and escort him to the Palazzo del Comune for the meeting of the *Sedici* "as if he were a prince." Prince he was in all

[1] *Commentarii*, p. 55, Frankfort, 1614.
[2] Ghirardacci, *Historia*, *op. cit.*, 214.

save title, yet, although the practical authority of the pope was as nothing, the papal suzerainty remained intact. Bologna, at this time, gives new meaning to Machiavelli's saying with regard to ecclesiastical States. "These alone have dominions and do not defend them, they have subjects and they do not govern them. Because their dominions are not defended they are not taken from them, because their subjects are not governed they do not trouble to, indeed they cannot, revolt from them. Therefore these principalities alone are safe and happy." [1]

The Bentivoglio Signoria as a study in Italian diplomacy is another aspect of the subject of which the interest is not confined to Bologna. It owed its existence as a political unit very largely to the new orientation of Italian policy manifest in the national league of 1454–5. The league marks the highest point to which the Italian powers attained in the course of the fifteenth century in their striving after a common policy. Confined expressly to Italian rulers and Italian territory, every state but two, within the limits laid down, was included in it.[2] Its primary aims were the peace of Italy and the maintenance of a stable equilibrium between the separate states. An independent Bologna was essential to such ends, and the part which she played in the league is correspondingly important. According to the terms of the treaty, as preserved in the Bolognese archives, Bologna was named as a colleague by three out of the five chief powers.[3] All members of the league pledged themselves to protect her liberty and her popular constitution; she on her side promised transit and quarters "with all honest support and help" to the forces of the league in her territories, and a contingent of 1,200 horse and 600 foot for service in the common cause. The ideal of an Italian League of Nations which the treaty embodies was but partially realised; its

[1] *Il Principe*, cap. xi.

[2] Soranzo, G., *La lega italica* (1454–5), Milan, 1924, describes in detail the machinery of the league.

[3] Diritti del Comune, 30 August and 3 September, 1454.

organisation existed for the most part on paper only. Yet its principles determined the policy of Florence and Milan throughout the century, and among them was the preservation of Bologna under Bentivoglio rule, as the surest guarantee of her independence. The events which transformed Sante from a Florentine *popolano* into the virtual lord of Bologna are shrouded in mystery, yet it is safe to assume that but for Cosimo dei Medici he would have spent his life as a wool-merchant. The importance attached by Francesco Sforza to the retention of Bologna within the Milanese orbit is seen in the steps which he took to marry his niece Ginevra, first to Sante and then to Giovanni Bentivoglio. The first marriage took place in 1452, when the bride was a child of ten and Sforza was still struggling to secure his hold upon Milan.[1] It was rushed through with such haste that Alessandro Sforza of Pesaro complained that he was allowed no time to get his daughter ready. Neither Nicholas V nor Cosimo dei Medici knew of it until it was a *fait accompli*. In 1464, seven months after Sante's death, Ginevra married Giovanni Bentivoglio, the son of the murdered Annibale ; Francesco Sforza was the moving force behind this marriage also. In saying this I am destroying a favourite romance of Bolognese historians. Giovanni and Ginevra were nearly of an age, they were thrown together during Sante's lifetime, and tradition has it that they were secret lovers. " Their marriage," we are told, " joined the hands of those whose hearts had long been united." [2] From letters in the Milanese archives it is plain, however, that Giovanni was for long opposed to the marriage. Prolonged negotiations between Milan and Bologna, and the exercise of considerable pressure on Sforza's part were needed to bring the matter to a conclusion. Then at last a Bolognese correspondent was able

[1] Rossi, L., *Matrimonio di Sante Bentivoglio con Ginevra Sforza* (8 *March*, 1452), Bollettino della Società Pavese di Storia Patria, 1906.

[2] Gozzadini, G., *Memorie per la vita di Giovanni II. Bentivoglio*, p. 8, Bologna, 1839. Cf. Ghirardacci, *op. cit.*, 181.

to write "Messer Giovanni is ready and willing to take the Magnifica Madonna Ginevra as his wife if your Excellency insists, more especially as he hears from Milan that he has nothing else to hope for." [1] These words ill befit an ardent lover. Strong in the support of Milan and Florence, the Bentivogli were able to take their place in the circle of Italian princes. Giovanni's numerous children married into the houses of Este, Gonzaga, Malatesta, Manfredi, Sforza and Orsini. He seemed to his contemporaries the most fortunate man in Italy for a private gentleman. He owed his good fortune largely to the fact that Bologna under his rule formed one of a congerie of friendly and independent states, which the diplomats of the day made it their object to maintain. By this means, it was hoped, no one Italian state would be in a position to establish a superiority over the rest; all would be united in keeping the door closed to foreign intervention. The French invasions marked the failure of this ideal. They ended the day of small states and turned men's thoughts once more to the hegemony of a single power as the source of Italy's salvation. Louis XII's career in Italy sounded the death-knell of the Bentivoglio Signoria and gave Julius II his opportunity to establish direct rule in Bologna.

External events were not, however, the sole or even the principal source of danger to the authority of the Bentivogli. If it had been so, they, like the Este of Ferrara, might have emerged triumphantly from Julius II's attack. The weak spot in their armoury lay within the walls of Bologna. Unlike the Este, they had no legal title, they were only the most outstanding of some dozen powerful families on whose friendships and enmities their fate depended. Perhaps more than in any other way the history of the Signoria is interesting as a study of the interplay of personalities. In the men who controlled the destinies of Bologna during these years statesmanship alternated with folly, patriotism went hand

[1] Galeazzo Marescotti to Francesco Sforza, 20 January, 1464. Archivio di Stato, Milano, Potenze Estere, Romagna.

in hand with unbridled quarrelsomeness, genius in creation was only surpassed by recklessness in destruction. Some of the leading families of Bologna, as for instance the Gozzadini, the Ingrati and the Pepoli, were old rivals of the Bentivogli; their attitude could be reckoned upon as being always more or less hostile. Others, among whom the Malvezzi and the Marescotti were outstanding, had played a prominent part in the establishment of the Bentivoglio supremacy. Men such as these recognised Sante and Giovanni as the leaders of their party, but they claimed an all but equal share with them in the honours of the city; they took fire at the least sign of tyranny. When Giovanni was given a permanent place in the *Sedici* by Paul II, Virgilio Malvezzi at once started an agitation in Rome to secure a like privilege. Giovanni thereupon wrote a troubled letter to Francesco Sforza saying that this must at all costs be prevented, or several others would demand permanent places and an infinity of quarrels would ensue.[1] Here, as in other crises, Giovanni honestly tried to act as peacemaker. He was by nature cautious and easy-going, careful of his money, hating violence and content to live as a citizen among citizens. His wife, however, was an able and ambitious woman, relentless in her pursuit of the family fortunes. Bred in the atmosphere of a Romagnol Court she was determined that the Bentivogli should live not as citizens but as princes. In differences of opinion which a correspondent of Lorenzo dei Medici in Bologna describes as "*la battaglia domestica*,"[2] Giovanni's counsels of moderation were defeated by Ginevra's vehemence. Meanwhile Virgilio Malvezzi's eight turbulent sons went

[1] Giovanni Bentivoglio to Francesco Sforza, 25 February, 1466. Archivio di Stato, Milano, *loc. cit.*

[2] Pandolfo da Pesaro to Lorenzo dei Medici, 10 February, 1490. Archivio di Stato, Firenze. M.A.P., Filza, XLIII, 65. Having written of Ginevra's determination to recover her daughter's dowry after the death of Galeotto Manfredi of Faenza, Pandolfo concludes, "Ho voluto anche significar questo a Vostra Magnificentia perche comprende che per questa materia Messer Giovanni habia anchora oltre l'affection paterna, la battaglia domestica."

about armed at night with a large following; they spoke of the pope as rightful lord of Bologna; when Giovanni Bentivoglio appeared on the Piazza del Comune, they posted themselves on the opposite side, and formed a rival centre of adherents.[1] Giovanni's own sons, when they grew to manhood, were as provocative as their opponents. So the ferment of faction worked in the life of the city until it culminated in the Malvezzi conspiracy. In 1488 the Malvezzi were surprised in an attempt to seize the Bentivoglio palace and murder Giovanni and his family as they sat at supper. Several of the conspirators were executed and others of the family were hunted from place to place in Italy by the vengeance of the Bentivogli. In 1501 came the turn of the Marescotti. They were suspected of being in correspondence with the Malvezzi, and of inciting Cesare Borgia to make himself master of Bologna. Ginevra, without her husband's knowledge, encouraged her son Ermes to make reprisals. Collecting a party of his friends, sons of members of the *Sedici* for the most part, he went armed to the Marescotti palace and massacred all on whom he could lay hands. The survivors joined the Malvezzi in exile, and, with them, helped to smooth Julius II's path to Bologna. The end of the chapter came in May, 1507, six months after Julius II had established his direct rule over the city. Ercole Marescotti called upon his fellow-citizens to join with him in the destruction of the Bentivoglio palace. "Let us destroy the nest," he cried, "so that the bird of prey may never return." [2] So one of the finest palaces of the Renaissance became a heap of smoking ruins; when the news was brought to Ginevra in her exile "she gave a great sigh and never spoke again." [3]

"La mechanceté humaine qui est grande, se compose pour une large part de jalousie et de crainte." These words

[1] Gerardo Ceruto, Milanese agent in Bologna, to Galeazzo Maria Sforza, 15 November, 1470. Archivio di Stato, Milano, *loc. cit.*

[2] Tommaso Pasi, *Cronica* (1428–1512). Bologna, Bib. Univ., MS. 3841.

[3] Fileno della Tuata, *Storia universale*, Vol. III, f. 599. Bologna, Bib. Univ., MS. 1439.

of André Maurois form a terrible and relevant epitome of the history of the Bentivogli. They performed a great work for their city. They brought to it unity of direction in government, freedom from external control, riches, fame, economic and artistic development. Yet their lordship depended upon the goodwill of the people, and before this tribunal they failed to establish their right to rule. Consciousness of an insecure position led to a policy of terrorism which had its roots in fear. Their fellow-citizens grew increasingly jealous of their authority until many of them viewed the Signoria as an enemy to the interests of Bologna. Then, forgetful of all the benefits which the Bentivogli had conferred on the city, they appealed to the papacy as to the champion of their liberty. In so doing they exchanged a native and informal despotism for one which had its centre in Rome, and which was upheld by every sanction that the law could give. The liberties of Bologna were forfeit to the sins of her citizens.

THE ANGLO-PORTUGUESE ALLIANCE

By Professor Edgar Prestage, M.A., D.Litt.

Read 9 November, 1933

The existing alliance between England and Portugal is usually said to date from the Treaty of Windsor of 9 May, 1386, celebrated between our Richard II and John I, or even from that of 16 June, 1373, between our Edward III and Ferdinand and to be the most enduring pact between two countries, but as it was in abeyance from 1580 to 1640, if not earlier, during the reign of Elizabeth and suffered a brief interruption in the time of Cromwell, the former statement seems to need qualification. Long before these conventions, however, perennial trading and intermittent political relations existed and they followed on a common brotherhood in arms arising out of an incident in the Crusades.

In June, 1147, an expedition of 164 ships carrying soldiers of various nationalities, Englishmen, Flemings and Germans, on the way to Palestine, put into the River Douro and its leaders were persuaded by the Bishop of Oporto to proceed to the Tagus to help Alfonso Henriques, the first King of Portugal, in an attempt to conquer Lisbon from the Moors. After a four months' siege, which is described by an eye-witness,[1] the city was taken and some of the Crusaders settled down in the country, while the rest pursued their way to the Holy Land; Gilbert of Hastings became the first Bishop of the restored See and in the same year

[1] Osbernus de Baldreton, *De expugnatione Lixbonensi* in *Itinerarium peregrinorum et Gesta regis Ricardi*, ed. Stubbs, Rolls Series, London, 1864, p. cxliv *et seq.*

Alfonso Henriques sent him back to England to enlist troops for service in Portugal. Later on, other bodies of Crusaders took part in the war for the liberation of Portuguese territory from Muslim rule; in 1189 Englishmen helped to capture Silves and in 1217 Alcacer.

The connection of Portugal with England and Flanders, which became a close one after the Treaty of Windsor, appears as early as 1184 in the support afforded by Henry II for the marriage of Theresa, daughter of Alfonso Henriques, to Philip Count of Flanders, and it would appear that the first King of Portugal sought protection against the superior power of the neighbouring realm of Castile and Leon, from which he had separated himself, by contracting friendship with the two northern countries and that it suited them, as hereditary opponents of France and her allies Castile and Scotland, to draw near to Portugal. The Viscount de Santarem, the leading authority on Portuguese diplomatic history, considers that the marriage of Alfonso Henriques himself to Matilda of Savoy in 1146 was dictated by the same idea, because this latter state revolved in the same political orbit.[1] On his accession to the English throne in 1199, John sent an embassy to Portugal to ask for the hand of an Infanta and in 1214 the Infant Ferdinand fought with the English and Burgundians against the French at the battle of Bouvines.

But though England and Portugal had common interests, the practice of piracy which was general, not only in the Middle Ages but much later and indulged in even by men of mark, caused frequent disputes and protests on both sides, while in 1293 and 1412 Edward I and Henry IV had to complain of the robberies perpetrated on their subjects in the very port of Lisbon.[2] At that time diplomatic business was not transacted by resident ministers, who are rarely found previous to the seventeenth century, but by

[1] *Quadro Elementar*, vol. XIV, p. ix.

[2] Rymer, *Foedera*, 1st ed., II, 609, and VIII, 727. Even as late as the reign of our James I the Channel was infested by pirates, some being Englishmen, others Turks from Algiers and Salle.

royal letters, which envoys or ambassadors carried to foreign courts, returning with the replies they received; very few of these letters of an early date have survived and nearly all of them come from English sources and not from Portuguese. They usually contain complaints of the seizure of ships or goods and the ill-treatment of merchants and make demands for compensation, but these were difficult to satisfy in view of the conflicting evidence, the connivance of those in authority in the malpractices and the distance from each other of the two countries. In addition to these drawbacks, there was, for the Portuguese, who did most of the carrying trade, the ever-present danger of shipwreck on the inhospitable shores of England, followed by the pillage of their cargoes, no uncommon occurrence. If commercial intercourse continued under such conditions, and we know that it did, the normal profits must have been large enough to compensate for the risks involved.

At first Portugal supplied England with wax, skins and leather, and later also with wine, dried fruits, oil and salt, in payment for which she took wool and cloth. In the early sixteenth century she sent sugar and then wine from Madeira, as well as Eastern drugs and spices; in the seventeenth, sugar, and in the eighteenth, gold and diamonds, all from Brazil.

Correspondence between the sovereigns of the two countries became more frequent in the reign of Dinis, who founded the Order of Christ and the University of Lisbon and reorganised the navy; his epistles and those of Edward I and II reveal a mutual desire to preserve friendship, increase trade and remove causes of friction,[1] while Alfonso IV in 1325 and 1326 sent two embassies to arrange a marriage between one of his daughters and the future Edward III.[2] Though it did not take effect, the latter in 1344, when he was about to engage in another war with France, proposed an alliance with the King of Portugal,[3]

[1] Rymer, II, 627, 632, 667, 758, and III, 12, 107.
[2] Rymer, IV, 157, 201. [3] Rymer, V, 410.

and in the following year he endeavoured to arrange a marriage between the Black Prince and Alfonso's daughter Leonor.[1] After long negotiations the union was agreed upon in 1347, but at the last moment Alfonso preferred to give Leonor to Peter IV of Aragon. In spite of this disappointment, however, the English monarch in the summer of 1352 welcomed two merchants from Lisbon and Oporto who came to ask for safe conducts for Portuguese subjects in England and granted their request. They were followed by Alfonso Martins Alho, representative of the maritime towns of Portugal, and though the latter brought no powers to conclude a political alliance as Edward had hoped, the King in October, 1353, readily entered into a commercial treaty with him for fifty years. This convention, which was the precursor of the existing alliance, provided for the mutual security of traders and their vessels and goods and contained a novel and important clause authorising Portuguese fishermen to carry on their industry on the coasts of England and Brittany, without let or hindrance, on payment of the customary dues.[2]

In return both Peter I and Ferdinand voluntarily bestowed privileges on the English merchants in Portugal,[3] and the latter celebrated the first political alliance with England, which was dictated by his need of assistance in the war he was carrying on against Henry II of Castile. Knowing that John of Gaunt, Duke of Lancaster, claimed the throne of that country through his wife, a daughter of Peter the Cruel whom Henry had expelled, Ferdinand sent an envoy to invite him to take part in the war, and in July the Duke entered into a treaty with the King which provided for common action against the enemy of both.[4] On hearing of this Henry invaded Portugal and in March, 1373, compelled Ferdinand to abandon his alliance with the Duke, but on 16 June following the King of Portugal's ambassadors celebrated an alliance with Edward III, under

[1] Rymer, V, 482.
[2] Rymer, V, 762.
[3] *Quadro Elementar*, I, 67, and XIV, 50.
[4] *Ibid.*, I, 229.

the powers they had received in the previous year. The tide of war in France had turned against England, but notwithstanding the needs of his kingdom, Edward agreed to send 600 men-at-arms and 60 crossbowmen to the help of Portugal, and an almost identical treaty was made at the same time between Ferdinand and the Black Prince.[1]

Once again the former proved false to his obligations and in the next year he supplied Henry with galleys for service against the English, yet when the death of Henry in 1379 encouraged him to hope for better success in a new war against Castile, he was able, taking advantage of the ambition of John of Gaunt, to make an alliance with the youthful Richard II for that end. Hence by Letters Patent of 15 July, 1380, he ratified the alliances he had entered into with Edward III and the Black Prince and promised that if the Earl of Cambridge came to Portugal with 1,000 men-at-arms and as many archers, he would pay their wages and take part in an invasion of the neighbouring country in favour of the Duke of Lancaster; he further agreed, if the Earl brought his son, to give him his daughter and heiress Beatrice in marriage.[2] In July, 1381, Cambridge reached Lisbon with his troops, while the Duke applied to Parliament for funds to enable him to proceed there with a larger force, but in August Ferdinand secretly made peace with John, the new King of Castile, and Cambridge was obliged to return home.[3]

The King of Portugal had the grace to despatch an envoy to offer his excuses to Richard and the latter does not appear to have shown the resentment he must have felt, since in the course of the following year he gave facilities for the export of arms and horses to Portugal.[4]

On Ferdinand's death in October, 1383, a complete change took place in Anglo-Portuguese relations, for from

[1] Rymer, VII, 15.
[2] Rymer, VII, 262.
[3] Armitage Smith, *John of Gaunt*, cap. XII.
[4] Rymer, VII, 361.

being uncertain and marked by disloyalty, they became constant and intimate, a result of the situation in which Portugal then found herself. The Infanta Beatrice had become the wife of John of Castile, and though Ferdinand in the marriage treaty had taken precautions to prevent the loss of Portuguese independence, the people realised that it was in serious risk, and in December the burgesses of Lisbon acclaimed John, bastard son of King Peter I and Master of the Order of Aviz, as Defender of the Realm. A war of succession was inevitable and John, having heavy odds against him, the majority of the nobles as well as the superior power of Castile, cast his eyes on England for military aid. The first envoys he sent and the ambassadors who followed on their heels merely asked for leave to enlist troops for the Nationalist cause, but in granting the request Richard II dwelt on the alliance he had made with Ferdinand in 1373 and stated his desire to help Portugal against her enemies, which were also those of England.[1] We may ascribe this friendly attitude in part to the influence of John of Gaunt ; though the Portuguese had proved faithless to their obligations, it did not suit him to regard them as cancelled, because Portugal was his gateway into Spain ; moreover, John's ambassadors had promised that when the Castilians were vanquished, the Master of Aviz would help him to enforce his claims.

A contingent of archers, accompanied by some knights and volunteers of good families, undertook to serve in Portugal,[2] and London merchants advanced large sums of money for their wages and the needs of the new government ; the delay in the repayment of these amounts led to considerable friction between the Portuguese and their creditors later on. Some of these English soldiers in two vessels forced the blockade of the Tagus and entered Lisbon on 2 April, 1385, during the siege by the King of Castile, and a few hundreds of them contributed to the victory

[1] Rymer, VII, 436.
[2] Rymer, VII, 450, 453, 455, 472.

of Aljubarrota on 14 August which secured Portuguese independence. The Master of Aviz had been elected King by the Cortes in the previous April and had immediately sent orders to his ambassadors to negotiate with John of Gaunt and endeavour to conclude a treaty with Richard II. This was signed at Windsor on 9 May, 1386,[1] and under its provisions the two countries entered into a perpetual alliance against all powers save the Pope, the Emperor and John of Gaunt, who was styled King of Castile, and it was stipulated that the treaty should be confirmed by all future sovereigns of England and Portugal within a year of their coronation. By a separate convention signed on the same day, John agreed to lend Richard 10 galleys which were to serve for six months, in view of the fact that the English fleet would be occupied in transporting or convoying the expedition of the Duke of Lancaster to Lisbon.[2] The news of the battle of Aljubarrota had encouraged the latter to pursue his claim, and as he was a disturbing factor in English politics and Castile was the enemy of England, the House of Commons granted him a subsidy for his expenses and in July, 1386, he arrived in Portugal. In February, 1387, the King of Portugal married his daughter Philippa, and though the Anglo-Portuguese invasion of Castile was unsuccessful,[3] the alliance between the two countries proved to be more lasting than such unions usually are, because it was founded on a common interest. Portugal was henceforth included as an ally of England in treaties made by the latter with other powers. In 1398 John obtained from England a body of men-at-arms and archers to assist him in repelling an invasion from Castile,[4] and in 1400 he was admitted by his brother-in-law Henry IV into the Order of the Garter; three of his sons and all his successors down to and including Manuel I and later on those from John VI to Manuel II received the same honour. In 1405 the marriage of Beatrice, natural daughter of John, to the

[1] Rymer, VII, 515 *et seq.*
[2] Rymer, VII, 524.
[3] Armitage Smith, *op. cit.*, cap. XIII.
[4] Rymer, VIII, 40.

Earl of Arundel, a prominent English nobleman, further strengthened the bond between the two Royal Houses.[1] The gain was not all on one side; many English men and women who accompanied Philippa to Portugal found permanent homes there, and John extended to English merchants the privileges enjoyed by the Genoese and Pisans and ultimately they became the most favoured nation. In 1415 some English vessels formed part of the fleet sent against Ceuta, the capture of which inaugurated the expansion of Portugal over the sea, Henry the Navigator, John's third son, organised maritime exploration and the treaty of Windsor was confirmed by Henry IV, V and VI. In 1429 the ancient friendship between England, Portugal and Burgundy was cemented by the marriage of John's daughter Isabella to Philip the Good, and the Order of the Golden Fleece was created to honour the event.

In 1471 an incident arising out of the struggle between the Houses of York and Lancaster interrupted the cordiality of Anglo-Portuguese relations; 12 Portuguese vessels on their way home from Flanders laden with merchandise were seized by Fauconbridge under a general commission to make prizes issued by the Earl of Warwick acting for Henry VI. Alfonso V had made no difficulty about recognising Edward IV as King and the latter had in March confirmed the treaty of 1386, but when the King of Portugal heard of the outrage, he held Edward responsible for it. He postponed the sailing of a fleet he had prepared for Africa, consisting of 400 sail carrying 30,000 men, and resolved to use it against England; moreover, as the embassy he despatched to London to demand reparation did not achieve immediate success, he issued letters of marque in December, authorising reprisals on English shipping, and followed this up by a declaration of war.[2] Edward neither desired nor could undertake a war against Portugal and in August, 1472, his ambassador took to Lisbon a royal

[1] Cotton MS., Nero B., I, ff. 32 *et seq.* British Museum.
[2] Goes, *Cronica do Principe D. João*, cap. 20.

letter confirming the existing treaties with a request that Alfonso would do likewise. The latter had by then abandoned his hostile designs and sent the desired confirmation by John of Elvas, but it was only to be handed over when the captured vessels had been restored. This took place some months later, and though other claims had still to be settled, friendship between the two nations was restored.[1]

When John II succeeded to the throne in 1481 and took the title of *Lord of Guinea*, he notified the fact to Edward IV, who recognised it, as well as the Portuguese monopoly of trade in those parts secured by papal grants,[2] and again confirmed the alliance,[3] as did Richard III. In 1488 Henry VII, a descendant of John of Gaunt, sent ambassadors to make a league and commercial treaty and admit the King of Portugal into the Order of the Garter.[4] In the instructions to his representative, Henry referred to the mutual need of trade as well as to the ties of blood which united the Royal Houses as being the basis of friendship between the two nations,[5] and when John was succeeded by Manuel the Fortunate, in whose reign the Portuguese founded their dominion in the East and in Brazil, the alliance was once more confirmed.[6]

Henry's insistence on the importance of Anglo-Portuguese trade is worthy of notice; its flourishing condition is ascribed by the traveller Giles de Bouvier to the alliance, the popularity of which was shown by the enthusiastic reception given to the English ambassadors by members of all classes.[7] The two countries did not produce the same

[1] Rymer, XI, 762–9.

[2] Resende, *Cronica de D. João II*, cap. 34. By medieval law the Pope had the right to dispose of newly found lands, especially in favour of those who would undertake to spread the Christian faith, and the grants to the Portuguese Kings were made on this condition.

[3] Rymer, XII, 163.

[4] Rymer, XII, 238.

[5] Rymer, XII, 351.

[6] *Quadro Elementar*, XV, 2.

[7] Journal of Roger Machado in *Life of Henry VII*, by B. Andrea, ed. Gairdner, London, 1858.

commodities and each was able to supply what the other needed, though the balance, at first in Portugal's favour, tended more and more against her.

In the sixteenth century Anglo-Portuguese political relations lost their previous intimacy and the two countries drifted apart; the attention of Manuel I and John III was mainly given to colonial matters, the exploitation of their monopoly of the Indian and African trade and of the overseas possessions and the defence of both against French and English intruders. They drew a large part of their revenues from the " conquests " and these were so extensive, stretching from Brazil to the Moluccas, as to give full scope for the energies of the kings and their subjects, who probably did not number more than a million and a half. Thus preoccupied, these monarchs avoided European complications and based their foreign policy on neutrality in international conflicts and on a close friendship with united Spain, which took the place of the secular hostility against Castile. To the ambition of conquest of one realm by the other, there succeeded on both sides that of absorption by hereditary succession, and with this end in view some of the marriages which joined the Royal Houses were contracted. Manuel I married, first, Isabella of Castile, next her sister Maria, and, lastly, Leonor, sister of the Emperor Charles V, while John III married Catharina, also a sister of the Emperor, and the last married Manuel's daughter Isabel and by her had Philip II, who ultimately succeeded to the throne of Portugal.

When Charles I of Spain became Emperor in 1519, the greatest power in Europe and the two colonial nations who divided the undiscovered world between them by virtue of the Bull of Alexander VI and the Treaty of Tordesillas were to some extent directed by a single will, for in continental politics John III allowed his brother-in-law to lead and their harmony, even outside Europe, was evinced in the settlement of the dispute over the Moluccas. This Portuguese-Spanish alliance tended to separate Portugal

from England and the Reformation widened the breach, for while Henry VIII rebelled against papal authority and Elizabeth cut off her realm from the Roman Church, John III strengthened national unity and the Catholic defences by means of the Inquisition, the Bull for which he drew from an unwilling Pope with the Emperor's aid, and by the newly founded Society of Jesus, whose members he employed as educators and evangelists. In the eyes of the Portuguese, who were still a crusading people and zealous for the Catholic faith, England had fallen into schism if not heresy, and Camoens, the national poet, voiced the opinion of his countrymen when he censured Henry VIII for making a "new kind of christianity" and for putting "those of Christ" to death, an allusion to the executions of Fisher and More.[1]

Notwithstanding the reasons for mutual coldness, however, the trade between the two nations was too profitable to both to be much affected by religious considerations, but a serious conflict of interest arose when Englishmen began to infringe the Portuguese monopoly [2] by trafficking with Guinea and Morocco and even supplying the Moors with arms and munitions, and still more when English pirates proceeded to prey on Portuguese shipping. These unfriendly acts were, as we shall see, connived at and defended by Elizabeth and her ministers under a doctrine of international law [3] which supported the natural ambitions

[1] Lusiads, VII, 5.

[2] Defended by Frei Serafim de Freitas with great learning in his *De justo imperio Lusitanorum Asiatico*, a reply to the *Mare liberum* of Grotius.

[3] In those days discovery was generally regarded as conferring a good title (W. E. Hall, *International Law*, ed. 1924, p. 126, and L. Oppenheim, *International Law*, ed. 1928, vol. I, p. 451), but Dr. J. A. Williamson has pointed out that Henry VII, in his Letters Patent of 9 December, 1502, to Hugh Elyot and others to discover heathen countries and annex them, does not recognise mere discovery without actual possession, and he seems to ignore the papal bulls in favour of Portugal. These Letters Patent may possibly have been in the mind of Elizabeth's officials, but there is no evidence that they were known to the Portuguese government. The precedents cited in support of the English policy were foreign, the reply of Charles V in 1522 to a Portuguese ambassador and the practice of the French.—Nero, B, I, ff. 92vo, and 115.

of a few adventurous spirits and at first brought profit to them and sometimes to the Queen herself, but they were undoubted breaches of the alliance, and indeed some of them might be called declarations of war. Though an open rupture did not come until Portugal accepted the union with Spain, hostilities would probably have begun earlier if either power had been in a position to wage them, but Sebastian, with commitments over half the world, could not think of an expedition against England and the latter had no prospect of attacking Portugal with success. For the Portuguese it was cheaper to endure these pinpricks and recoup losses by reprisals, indeed, under John III they had suffered far more at the hands of the French, and yet the two countries continued to be at peace while their subjects were fighting each other at sea and in Brazil.

During the long reign of Henry VIII (1509–47) which covered the greater part of those of Manuel I and John III, the political relations of England and Portugal seem to have been almost limited to negotiations for a match between the Infant Louis, John's brother, and the Princess Mary, afterwards Queen, and it is curious to find that the Emperor and not the King of Portugal initiated the project and first broached it to Henry VIII, promising to give the bridegroom the Duchy of Milan. Though John approved it, as did Henry, he played but a secondary part in the matter.[1] When Mary ascended the English throne, Charles changed his mind and arranged that his son Philip should become her husband, giving as an excuse to John that the members of the Privy Council who favoured a foreigner, preferred one who could command force enough to overawe troublesome subjects and alien foes.[2] It was in Henry's reign that the English first began to challenge the Portuguese colonial monopoly which had been respected by his predecessors; in 1530 and the following years William

[1] British Museum, Harleian MS. 282 *passim* and 297, f. 54vo, and 523, f. 62. Cotton MS., Nero, B, I, f. 68; Galba, B, XII, ff. 42, 90.

[2] *Quadro Elementar*, XV, 79, 87.

Hawkins made voyages to Brazil and the Guinea coast and carried on a lucrative business, though the Portuguese records have so far yielded no reference to the protest which these proceedings must have caused.

Regular trade between England and Morocco appears to date from 1551. Two years later Thomas Wyndham, guided by a Portuguese renegade pilot, Antonio Penteado, took three vessels to Guinea, and though an epidemic killed most of the crews, the expedition proved a pecuniary success, and even more profitable ventures were afterwards made by John Locke and William Towerson. The Portuguese ambassador Diogo Lopes de Sousa protested against the infringement of his master's rights and Mary's consort supported him, fearing that the English might next claim to sail to the Spanish colonies. In December, 1555, Mary informed John III that she had stopped vessels from going to Mina, and in the following July she extended the prohibition to the other possessions of Portugal,[1] but it was not effective and the request of the Privy Council that the ambassador should show his country's title deeds marks the beginning of a non-acquiescence in claims, hitherto officially allowed, which was to produce friction in the next reign. Such a request might almost be considered insulting, for one king does not plead his cause before another. To judge from later events, the purpose of it was not to obtain information, but to compel the Portuguese to engage in a legal controversy; if they referred to papal grants, as they must do, the validity of these would be questioned, and under Elizabeth it was denied.

In 1557–8 Sebastian became King and Elizabeth Queen; the hot-headed leader of a last crusade and the wary, intelligent woman, untroubled by moral scruples, could have little in common, and it is not surprising that we find hardly any more mention of the alliance between the two countries and the vague word friendship takes its place.

[1] Frei Luis de Sousa, *Annaes de D. João III*, p. 447. Cotton MS., Nero, B, I, f. 75.

The forbidden voyages continued, and as the Portuguese increased the number of their guardships, armed conflicts took place and led to mutual retaliations; in April, 1561, Sebastian's envoy Manuel de Araujo complained that some of the adventurers had not only pillaged Portuguese vessels but even tried to sell members of the crews to the Moors. In reply the Queen, after disclaiming liability for these actions, observed that monarchs united by necessity and friendship allowed their subjects to trade in each other's realms, and if it was sought to prevent the English from carrying on business with the countries belonging to the King of Portugal, she must see that they were not placed in a worse position there than the Portuguese in the territories belonging to England. As the latter had then no colonies, the cases were not parallel and the argument savoured of hypocrisy. The Queen added that she preferred to leave matters in *statu quo*, but that if the King of Portugal would not allow Englishmen to traffic with his conquests, she would forbid them to go there, but the Letters Patent she issued on April 24 limited the prohibition to the parts of Africa under Portuguese rule.[1] In communicating this decision to the King on 22 November, 1561, Elizabeth declared that she had thus restricted the liberty of her subjects more than her predecessors had done, and she expressed the hope that Sebastian would agree to her reply, so that the English might enjoy "the liberty established by the law of nations for merchants."[2] The Queen must have realised that the King would not and could not change his policy to please trading rivals, but we should sympathise with this protest against the principle of monopoly if we did not know that England adopted it when she became a colonial power, and we feel convinced that she would have done so earlier if she had been in the place of Portugal.

[1] MS. Nero, B, I, ff. 78–82; *Calendar of State Papers, Foreign*, 1561–2, p. 78.

[2] Nero, B, I, f. 83.

Adventurers who had chafed at the restrictions placed on their activity by Mary could now rely on Elizabeth's tacit approval. In the very year 1561 a ship, *The Primrose*, sailed to Guinea, and in 1562 Sir John Hawkins made the first of his voyages to the same parts, where he loaded slaves and took them for sale to the Spanish Indies. In this year John Pereira Dantas, Portuguese ambassador in Paris, an experienced diplomat, came to London, and in June set his master's case before the government in detail, presenting at the same time a copy of an order of Francis I which forbade his subjects from trading with the Portuguese colonies.[1] The rights of Portugal to the countries over which she claimed a trading monopoly[2] were based on discovery at the cost of the lives and capital of her subjects; some of these countries paid tribute to her, while from others it was not exacted; fortresses had been built in some of them, while to those whose climate was unhealthy trading ships were sent annually, but in all of them the natives gave obedience to the King of Portugal, who had converted large numbers to the Christian faith. These rights were peaceably enjoyed and in proof of this the ambassador instanced the titles borne by Sebastian and his predecessors of "Lord of Guinea and of the conquest, navigation and trade of Ethiopia, Arabia, Persia and India," which had never been contested. He admitted the plea of the Council that the King was not in actual possession of all these territories, but argued that this fact ought not to prejudice him and asserted that the King was entitled to make such trading regulations as he deemed best to indemnify him for the expense of their discovery. He pointed out that the English enjoyed freedom of trade in Portugal and her Atlantic islands and were only forbidden to go to the new countries, but even the Portuguese themselves could not sail there without obtaining leave.

[1] Gomes de Carvalho, *D. João III e os francezes*, Lisbon, 1909, pp. 24, 83 and 90. The prohibition was, however, not obeyed.

[2] Dantas, however, objected to the word as only used by common people.

Dantas concluded by protesting against the English trade with Morocco and the sale of arms and munitions to the Moors, who were thus enabled to attack the Portuguese fortresses with advantage.

In reply, the Council informed him that the Queen would prohibit her subjects from trading with the parts where the King of Portugal exercised sovereignty but not elsewhere, and the ambassador had then to invoke the authority of papal bulls which conferred the rights he asserted and to hint that Sebastian might be compelled to defend them.[1] As the Council would not accept his arguments and the voyages to Guinea continued, Ayres Cardoso was sent to London in September, 1564, on the same business, but he received a like reply and in the following year the threatened reprisals commenced; a ship named *Mary Fortune* belonging to William and George Winter was sunk by the Portuguese off the Rio dos Cestos beyond Cape Verde, with its crew and a cargo valued at £7,600. According to the English view the natives with whom the Winters had traded were neither subjects of the Portuguese crown nor paid tribute to it, and Dr. Thomas Wilson was therefore despatched to Lisbon in June, 1567, to protest against the act of "intolerable audacity" and demand reparation for this and other alleged outrages. After hearing him, Sebastian wrote to Elizabeth in equally strong terms; the English had despoiled the Portuguese of over 400,000 ducats and now, when they defended themselves against those pirates, the latter were bold enough to complain and to try and compromise him in the eyes of the Queen; yet to show his goodwill he had ordered some prisoners taken by his subjects to be released.

Wilson could obtain no further satisfaction, nor was it likely that he should, since he had been instructed to declare that the Queen did not recognise the right of the Pope

[1] For the correspondence between Dantas and the English Government, v. Nero, B, I, ff. 85–110. In 1564 a proclamation was issued forbidding Englishmen from trading to the lands under the dominion of the King of Portugal. *Trans. of the R.H.S.*, 1902, p. 71.

to grant the lands of infidels, if the point were raised.[1] This cut at the root of the Portuguese case. In December Sebastian sent yet another envoy, Manuel Alvares, who in his discourse to the Queen spoke with great freedom, expressing the regret of his master that, instead of punishing the intruders, she seemed to favour them, so that their audacity increased. He complained that Sir John Hawkins had then lately seized eighteen ships on the Guinea coast, his depredation amounting to 200,000 gold pieces, and asked that his goods should be seized, his partners punished and the Portuguese indemnified for the losses they had suffered; at the same time he laid stress on the advantages which England derived from her trade with Portugal. Elizabeth rejected these demands, repeating the old argument that her subjects ought to have the same commercial liberty in the dominions of Sebastian as the Portuguese had in England, and urged that the King should abandon his monopoly.[2]

The envoy returned home in January, 1569, and reprisals began on both sides in Europe; the goods of Portuguese in England were sequestered by order of the Council and Sebastian took a similar step regarding English property in Portugal. Elizabeth next gave Winter letters of marque to enable him to recoup himself and Sebastian seized all English vessels in Portuguese harbours. Soon, however, more peaceable counsels prevailed, owing to the intervention of English merchants concerned in the Portuguese trade, who represented that they and the royal revenue would be the sufferers from the letters of marque, while at the same time Antonio Fogaça, a wealthy Portuguese established in London, offered to act as mediator and he received a passport to proceed to Portugal for the purpose. In December Sebastian gave him powers to negotiate, but insisted that the goods taken from his subjects should be restored, the letters of marque cancelled and his monopoly respected.[3]

[1] For Wilson's negotiations, v. Nero, B, I, ff. 121–36.
[2] For the mission of Alvares, v. Nero, B, I, ff. 116, 137–45.
[3] v. Nero, B, I, ff. 149 and 162.

Fogaça may have contributed to a settlement, though he did not make it, for in the summer of 1571 we find Francisco Giraldes acting as ambassador in England and writing home that he hoped it would soon be concluded, and in reply the King sent him instructions for a treaty.[1] The English merchants were eager for peace as their business had been interrupted for two years and they suggested that the Portuguese monopoly should be admitted, if it was limited to places south of Cape Branco, since those who wished to infringe it were only a few adventurers and they had derived little profit from their voyages.[2] In fact, Fenner's expedition of 1566–7 to Guinea had to do more fighting than trading, and the third made by Hawkins came to a disastrous end in 1568. Their possession of armed bases on the coast where they could refit their galleys enabled the Portuguese finally to put a stop to the intrusions.

In the Articles he submitted, Giraldes asked that Elizabeth should forbid her subjects from going to "the conquests," while the Council began by suggesting that the restriction should only apply to the Indies, but in February, 1572, it accepted the Portuguese claim, except with regard to trade with Morocco, and a treaty was drawn up and agreed to by both parties but not signed.[3] According to Santarem the reasons for this were the disinclination of the Portuguese to concede free trade with Morocco and the protest made by Philip II, who resented the protection given by Elizabeth to the revolt in the Low Countries. In the following year, however, Sebastian changed his mind and authorised Giraldes to confirm the treaty and declare that English trade with Morocco would not be interfered with.[4] As this mere assurance did not prove acceptable to the Council, the ambassador received instructions in January, 1574, to persuade the English to abstain from that trade

[1] Nero, B, I, f. 161. [2] Nero, B, I, f. 162.

[3] Nero, B, I, f. 157. The treaty is printed in Figanière's *Catalogo dos MSS. portugueses no Museu Britanico*, p. 84.

[4] Harleian MS. 6991, f. 54.

for twenty or thirty years, or in the alternative to be content with carrying it on at one place, but the Council would not agree to any restrictions so that a settlement seemed impossible. Negotiations continued, however, and in May, Burghley suggested a compromise by which the English should be allowed to trade with three of the nine ports where the Portuguese had forts or factories.[1] As Giraldes could not yield on this point, the whole question of monopoly had to be put on one side and a treaty was concluded on 29 October, 1576, providing for the cessation of embargoes, mutual restitution of goods taken since 1568 and reparation for losses; all letters of marque were to be suspended and the English were to enjoy the old liberty of trade with Portugal and the Atlantic islands.[2]

It might be argued that they were implicitly forbidden to exercise it elsewhere in the Portuguese dominions, but the fact that Elizabeth refused to recognise the claims which her predecessors had admitted constituted in effect a victory for England. During the long controversy, we find references to the voyages made to the Portuguese possessions in the time of Henry VIII and Edward VI, and though these were at first regarded as illicit and conducted clandestinely, the revolt against papal authority, changed conditions and custom had, in English eyes, given them increasing sanction and Elizabeth could not have stopped them even had she been so minded. A new situation was bound to arise when the story of the large profits made by the Portuguese in their voyages came to be known throughout Europe. The latter could not hope to permanently close to others large portions of the world which they did not occupy, unless by force and this was lacking. It is true that the coast of Morocco was dotted with fortresses, but in the whole of Guinea there were only three with a dozen factories,

[1] Nero, B, I, f. 165; Add. MS. 34329, ff. 4, 6vo.

[2] The original of this treaty signed by Giraldes and Walsingham is in the Record Office (S.P., 70, 140, No. 854), and a copy in Nero, B, I, f. 217, but the convention is not printed in Rymer or Dumont, and there seems to be no record of its having been ratified.

and there is no evidence that Portuguese authority on land extended beyond their neighbourhood, though the sea was patrolled by small craft which often captured intruders. The latter were lured by the hope of gain and would have made their ventures sooner or later, even if they had been Catholics and not Protestants. Religious differences only made the struggle more bitter, especially in Brazil between the Portuguese and French Huguenots.

The death of Sebastian in 1578 at the battle of Alcacer raised the question of succession to the throne of Portugal, (for Henry, who followed him, was both an old man and a Cardinal,) and the English Government sent William Wade to Lisbon and Madrid to study the position and chances of the principal claimants, Antonio Prior of Crato, Catherine Duchess of Braganza, and the King of Spain.[1] In August, 1579, he was able to inform Walsingham that the last would succeed by force of arms and this happened in the following year.

The union of the two crowns, by doubling the territorial possessions of Philip II, constituted a serious menace to other nations and proved disastrous to Portugal because the enemies of Spain became also hers and the Anglo-Portuguese alliance, which had long existed only in name, fell into abeyance. It is true that both England and France gave assistance to the Nationalist movement led by that unsatisfactory pretender the Prior of Crato, but as no one dared to enter upon a serious war with Philip, naval expeditions might cause him injury but could not put Antonio on the throne. Portugal lost heavily in ships and men by the defeat of the Invincible Armada in 1588, and in the following year the failure of the attempt of Drake and Norris to capture Lisbon destroyed the last hopes of the Nationalist party. The citizens of the capital did not rise in favour of the invaders, probably because while they had little love for Spaniards, they had less for heretics and felt resentment towards the nation which had intruded itself

[1] Harleian MS. 168, f. 69.

into their colonies. Though they did not know it, the efforts of their Protestant rivals had only commenced, and the Dutch proved to be more deadly than the English ; the latter created chartered companies for trading to Morocco, Gambia, Sierra Leone, India and Guiana, but they made no territorial acquisitions,[1] while the former occupied Pernambuco in 1630 and from there overran a large part of Brazil, and in India, Malaya and the Moluccas nearly all the Portuguese fortresses and factories fell into their hands.

The Portuguese recognised that they were themselves responsible in part for these losses and humiliations, but they attributed the greater share in them to the union with Spain, and this belief led to the revolution of 1640, the success of which was facilitated by the revolt in Catalonia against Philip IV. The new King of Portugal, John IV, at once sought recognition of his title and material aid from the enemies of Spain for the war which he saw to be inevitable and actually lasted twenty-eight years, and he obtained both from France and Holland. As Charles I of England was on good terms with Spain, the Portuguese ambassadors found difficulty in gaining admission, but the religious freedom and fair trading conditions they offered to English merchants prevailed and a Treaty of Peace and Commerce was signed on 29 January, 1642. By this convention Portugal secured the neutrality of England in the coming struggle, but the old alliance was not mentioned, nevertheless John IV helped Charles in the Civil War with arms and munitions, and when in November, 1649, Princes Rupert and Maurice took refuge in the Tagus with ships of the Royal Navy, he received them and refused to surrender them to the parliamentarian admiral Blake. This action led to an open rupture between the two countries, and although hostilities were confined to the sea and on a minor scale, the peace treaty of 1654 was very dis-

[1] Their efforts to occupy the delta of the Amazon were frustrated by the Portuguese colonists from Pará.

advantageous to the smaller nation. Under its provisions some of the colonies were opened to English traders, whose privileges in Portugal were greatly extended, and custom dues could not be raised without their consent. The treaty gave the first evidence of the ascendancy gained by England, since her subjects doing business with and resident in Portugal now found themselves in a better position than the Portuguese themselves, and it was only ratified by John IV under the threat of force. But some of these concessions were probably made with the view of obtaining political support and they achieved this end. In 1655 Cromwell declared war against Philip IV, and as they now had a common enemy, England and Portugal drew closer together; Portuguese harbours proved of much value to the English fleet in the following years and by the Treaty of Westminster, 18 April, 1660, Francisco de Mello, afterwards Marquis de Sande, obtained leave from the Commonwealth to raise a military force in Great Britain for service against Spain. Owing to the restoration of Charles II, on the 29 May following this treaty was not ratified within the time appointed, but his marriage to Catherine of Braganza led to another treaty, that of 23 June, 1661, which renewed the old political alliance and confirmed the treaties made since 1641, though the older ones are not mentioned in it. In addition to a large dower in money, Catherine brought to her husband Tangier and Bombay, and the commercial privileges of the English were further augmented, while Charles promised to defend the Portuguese dominions against "all enemies present and future with his utmost power by sea and land, even as England herself," to furnish military and naval aid and not to make any peace with Spain which would prevent him from carrying out the treaty. The English auxiliary troops distinguished themselves at the battle of Ameixial and elsewhere and helped the Portuguese to win the war, and finally by the treaty of 13 February, 1668, negotiated by the Earl of Sandwich, Spain recognised the independence of her neighbour.

During the European wars of the latter part of the seventeenth century, Peter II maintained a strict neutrality which led to a large increase of Portugal's foreign trade at the expense of that of England,[1] but in 1700 the death of Charles II of Spain which led to the War of Spanish Succession obliged Peter to change his policy. He recognised the right of Philip V, grandson of Louis XIV, to the vacant throne, and by the treaties of 18 June, 1701, he ranged himself on their side and agreed to close his ports to ships of any powers who made war on them. In compensation Spain and France undertook to support the claim of Portugal to the reduction of certain debts due from her to England and Holland and to the retrocession of some territorial conquests made by these powers at her expense. By thus placing himself in opposition to the maritime powers, Peter was moved by fear of Louis XIV, for while William III and his Parliament were at issue and Holland was weak, France and Spain, united by a close family tie, could, if unfriendly, overwhelm Portugal before help arrived from England. Nevertheless with her long coast-line and colonies Portugal was at the mercy of the powers commanding the sea, and when the Grand Alliance was formed against Louis XIV to place the Archduke Charles upon the throne of Spain and war broke out, she began to repent the attitude she had taken up. As the French could not send the assistance they had promised, she considered herself freed from her obligations, and after long negotiations joined the Grand Alliance by the treaty of 16 May, 1703, which confirmed all former treaties between England and Portugal. The very favourable terms she obtained [2] proved the value attached to her adhesion, on the ground that she was the gateway into Spain. Among these was the stipulation in

[1] "Portuguese trade was never half as large as now and will increase if the war continues. . . . Before the war the trade of Lisbon was all in English hands." *State Papers, Foreign, Portugal*, vol. 17. Letter of 10–20 February, 1694.

[2] They were criticised by Swift in his pamphlet, *The Conduct of the Allies*.

secret articles of the treaty that the Archduke, when he became legitimate King of Spain, should cede to Portugal a line of fortresses on his western frontiers and the colony of Sacramento on the River Plate.

This treaty was followed on the 27 December of the same year by the Methuen treaty, which provided for the admission of English woollen goods into Portugal and of Portuguese wines into England at a duty one-third less than that levied on the French. This convention, which founded the port-wine trade as we know it, used to be condemned by Portuguese economists on the ground that it destroyed their manufactures, but it is now more favourably regarded by them and even Pombal spoke well of it, though one of the features of his administration of twenty-seven years from 1750 to 1777 was a series of attempts to render his country less dependent on England by the protection of existing industries and the foundation of new ones. Portugal did not secure the promised extension of territory because the war in Spain went against the Allies; she refused proposals of peace in 1711 to please England and the latter made a separate peace with France. However, at the Congress of Utrecht, England secured for her ally the north bank of the river Amazon from France. The Portuguese would have been unable to obtain satisfactory terms from Philip V unless Louis XIV had supported their demands, but in 1762, when they became involved in the Seven Years' War, they invoked Article III of the treaty of 16 May, 1703, and obtained military assistance from England to repel a Spanish invasion.

In the wars arising from the French Revolution, the government of a small country like Portugal had a most difficult task and gave proof of considerable ability, save in one important respect, that of preparation for military defence. In view of Anglo-French rivalry it had to steer a devious course and make heavy sacrifices, but succeeded in preserving the extensive colonial possessions which would have been lost if it had taken the side of France. By the

treaty of 26 September, 1793, Portugal agreed to make common cause with England and close her ports to French ships, and at the same time she undertook to assist Spain and entered into the disastrous war of Roussillon. In 1795 Spain made peace with France and left Portugal in the lurch, but in 1797, when she was threatened by a Franco-Spanish invasion, England sent another expeditionary force to her aid. In 1801, however, under pressure from Napoleon a Spanish army actually entered Portugal, and as she received no help from her ally, she had to submit to the Treaties of Badajoz and Madrid, cede Olivença to Spain, make territorial concessions to France in South America and pay the latter a large money indemnity. This was the result of her fidelity to the alliance, and notwithstanding Article 6 of the Treaty of 1793 the British Government did not insist on the restoration of Olivença at the Peaceof Amiens.

In August, 1807, Napoleon required Portugal to declare war on England, to close her ports to English ships, to join her fleet to that of France and Spain and sequester English property; the British Government allowed her to accept the second demand, but the Portuguese refused to consider the last, and by the Treaty of Fontainebleau, 27 October, 1807, France and Spain agreed upon a partition of Portugal and a French army under Junot invaded the country. Resistance being out of the question, it was resolved that the Royal family, court and treasure should embark for Brazil, a project which had been considered more than once on occasions of similar danger and on 29 November the fleet conveying them sailed from the Tagus. The decision was in part the result of a British ultimatum which called upon the Prince Regent, afterwards John VI, to leave with his ships or have them seized; the English Ministry would not allow them to fall into the hands of the French. John's removal of the seat of government to Rio de Janeiro was resented by the populace of Lisbon and has been condemned by some Portuguese writers as an act of cowardice and a desertion of his country, but

it proved to be a wise step and saved the national independence. If the Royal family had been captured by the French, John would, like other rulers, have been compelled to submit to the political exactions of Napoleon. Knowing the effect it would produce on his subjects, the former delayed his departure until the last possible moment, so that when the tired French troops straggled into Lisbon, after a hurried march over Portugal in the worst winter weather, the last vessels of the Portuguese fleet were actually crossing the bar. The prey only just escaped from Junot, and his anger and that of Napoleon when he heard the news are evidence that John and his advisers were right in their decision. Nevertheless the fourteen years' residence of John in America led to the separation of Brazil from the mother country and the opening of its ports to foreign shipping was a catastrophe for Portuguese trade.

The course of the Peninsular War which followed, where English and Portuguese fought side by side, is too well known to need more than a reference.[1] Portugal became the base of the English army as she had been of the English fleet, when the latter, owing to the hostility of Spain, had to leave the Mediterranean. The Convention of Cintra, by which the French army was permitted to leave with its plunder, was as greatly resented by public opinion in England as in Portugal. As the result of three French invasions, Portugal emerged from the long struggle a ruined country; though she helped to defeat the legions of Napoleon and to expel them from Spain, she received an insignificant part of the indemnity paid by France, and at the Peace of Paris she was compelled to restore her conquest of French Guiana.

The old alliance was renewed by one of the two treaties of 19 February, 1810,[2] made in Rio de Janeiro, but as this

[1] The subsidies granted by England to Portugal during the war amounted to a total of nine million pounds.

[2] The Commercial treaty was very prejudicial to Portugal and successive Portuguese governments made attempts to have it cancelled, and finally succeeded.

pact was founded on circumstances of a temporary nature, it was declared void by Article 3 of the Treaty of Vienna signed on 22 January, 1815, but without prejudice to the ancient treaties, which were acknowledged to be in full force. Finally, the engagements on the part of England to defend Portugal against external aggression were affirmed by Earl Granville in a dispatch of 19 February, 1873, addressed to the English ministers in Lisbon and Madrid, when the Republican party in Spain was supposed to be contemplating an attack on her with the object of establishing an Iberian Republic.

On February 15, when speaking to the Spanish minister in London, Lord Granville said "that Great Britain had always disclaimed the wish to interfere in the internal affairs of other countries, but there were treaty engagements between Portugal and Great Britain to defend Portugal against external aggression and that the Spaniards could not count upon the indifference of England to an external attack upon Portugal." [1]

On the other hand, on February 27 the British minister in Lisbon was instructed to make it clear to the Portuguese Government that Her Majesty's Government reserved to themselves the right to judge of the circumstances under which any appeal was made to them by Portugal for succour,[2] and this attitude has not been departed from up to the present.

The British guarantee extends to the Portuguese colonies, as stated in the Anglo-Portuguese secret Declaration of 14 October, 1899.[3]

It is now a rule of International Law that one state has no right to forcibly interfere in the internal affairs of

[1] v. Parliamentary Papers, Miscellaneous, No. 2 (1898), *Treaties containing Guarantees or Engagements by Great Britain in regard to the Territory or Government of other Countries.* The articles of the treaties from 1373 regarded as still in force are set out at pp. 67 *et seq.*

[2] *British Documents on the Origin of the War*, 1898–1914, vol. 1, London, 1927, p. 51.

[3] *Ibid.*, p. 93.

another, except to protect its own subjects, but this was not always the case and the Anglo-Portuguese Treaty of 1386 might have been construed as binding England to assist in suppressing revolts in Portugal and her colonies. In the nineteenth century such an obligation, if it ever existed, was held by British statesmen to have lapsed, and both Castlereagh and Canning disavowed it ; hence England refused to help to suffocate the revolution in Brazil and Cochrane and other English officers were able to assist the Brazilians to expel the Portuguese troops. In 1826 Canning sent an expeditionary force to prevent an attack on the Portuguese Constitution, granted by Peter, son of John VI, on the part of deserting troops who had taken refuge in Spain and there been supplied with arms and equipment. His action was criticised on the ground that he must have known that Saldanha had compelled the Regency to have the Charter sworn by the threat of military intervention, that it was generally disliked, and that Peter as Emperor of Brazil (which had separated from the Motherland), and therefore a foreigner, had no right to succeed to the Portuguese throne and grant a Constitution, but Canning fulfilled the letter of the treaties by responding to a request by the *de facto* government of Portugal. This attitude was part of his policy of opposition to the Holy Alliance which was combating English influence in Portugal, and it had the support of English public opinion, which knew nothing of the rights of the dispute, but honestly though erroneously believed that a mode of government which suited England must also be good for Portugal. In fact, Canning had grave doubts as to whether the Constitutional experiment would succeed, and in the event it failed ; Miguel, Peter's brother, was called to the throne by the popular voice and duly elected by the estates of the realm, but was never recognised by England because he refused to grant an amnesty to his opponents, and when Wellington fell from power, English soldiers and sailors were allowed, in spite of the Foreign Enlistment Act, to take part in the Civil

War on the side of the Liberals, whose triumph they secured.[1]

Later, in 1834, Palmerston arranged the Quadruple Alliance which provided for the co-operation of the English navy to expel Miguel.[2]

The Parliamentary régime thus imposed by foreigners in the name of liberty on a recalcitrant nation led to perennial unrest and revolution and Palmerston's interference with the internal affairs of our oldest ally cannot easily be defended.

The other differences which arose between the two countries in the nineteenth century related chiefly to questions of slavery and the title to colonial possessions. The first produced many treaties and at times serious friction, especially when Palmerston carried a bill through Parliament in 1839 authorising British cruisers to seize Portuguese vessels engaged, or suspected of being engaged, in the slave trade, on the ground that successive governments had omitted to fulfil treaty obligations to stop the traffic.[3] As regards the second, the claims of England to Bolama on the Guinea coast and Delagoa Bay were submitted to arbitration in 1870 and 1875 and decided in favour of Portugal. Differences as to the Congo and the limits of Angola were settled by the General Act agreed upon at the Berlin Conference in 1885 and by treaties following on its

[1] At the battle of Cape St. Vincent, 5 July, 1833, between the Constitutional squadron under Napier and the Miguelite fleet, the officers and crews of the former were largely Britishers. During the siege of Oporto Peter's army included many foreign mercenaries, English and others, and after it was over Napier led the force which overran the province of Minho.

[2] Palmerston claimed to have carried the measure through the Cabinet by a *coup de main* and believed that it would "settle Portugal." He foresaw that Peter and his ministers would not like it and said: "they wish the Civil War to go on that they may continue to plunder and confiscate." Bulwer, *Life of Palmerston*, II, 180.

[3] The Portuguese case was ably presented by the Viscount da Carreira and the Baron de Sabrosa and the latter made some stinging countercharges.

Biker, *Collecção de Tratados*, XXVIII, pp. 392 *et seq.* and 457 *et seq.*

lines. The design of Portugal to unite her colonies on the East and West coasts of Africa, Mozambique and Angola, by annexing the intervening territory would have succeeded if carried out earlier, but after the travels of Livingstone and especially after the scramble for Africa had begun, it was too late. It provoked a conflict with England and in 1890 drew an ultimatum from Lord Salisbury to which Portugal had to bow. Many years elapsed before the boundaries and spheres of influence of the two countries as fixed by the Treaty of 11 June, 1891, were finally settled, and it was necessary to have recourse to arbitration in the cases of Manica and the Barotze.

The alliance formed by England with the Portuguese monarchy in 1373 has been continued with the Republic proclaimed in 1910, and relations between the countries are at the present time of a most friendly character; they have been drawn yet closer by memories of a common partnership in the Great War.

In the Instructions given to the Comte de Merle as French Ambassador in Lisbon in 1759, it is said of the alliance between England and Portugal: "leurs besoins communs, autant que leurs interets, la rendront solide et durable,"[1] and this is still true. The advantages which Portugal derives are obvious, while some of its value to England in the event of war may be seen by reference to a map, showing the geographical position of Portugal with the port of Lisbon and the bay of Lagos near the entrance to the Mediterranean and that of the islands of Madeira, the Azores and Cape Verde.

There are bound to be occasional clashes in a long partnership, and in such cases the stronger is apt to impose its will upon the weaker, but it may be confidently said that Portugal could not have found in any other great power an ally so generally useful.

If mutual interest is the basis of the alliance, sentiment

[1] Saint-Aymour, *Recueil des Instructions*, etc., *Portugal*, Paris, 1886, p. 328.

has played a part; indeed, it could hardly have lasted so long without a measure of mutual esteem among the officials of both sides, whether political, naval or military, whose business it has been to work it both in Europe and the Colonies. The very divergent temperaments of Englishmen and Portuguese have usually proved no obstacle to co-operation, probably because each race has to some extent been attracted by qualities in the other which it does not itself possess.

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THERE is no history of the Anglo-Portuguese alliance in English, but the medieval period was described by Miss V. M. Shillington in her paper in the *Transactions* of the R.H.S. (N.S., Vol. XX), and I have covered that of the Restoration in the *Diplomatic Relations of Portugal with France, England and Holland* (1640–1668), while the *Commercial Relations of England and Portugal* of V. M. Shillington and A. B. W. Chapman (London 1907) contain much political matter.

More recently, some particulars of the diplomatic and economic relations of the two countries will be found in *British Diplomatic Instructions* and *British Diplomatic Representatives* (Camden, 3rd Series) and in the work by Sir Richard Lodge, "Benjamin Keene," and in his papers on the same subject and on "The English factory at Lisbon" in the Society's *Transactions*, 4th Ser., Vols. XV and XVI.

Abundant material is to be found scattered about in English publications and in the official Calendars of State papers, Domestic and Foreign and Parliamentary papers, but even more is still unedited, i.e. the diplomatic correspondence at the Public Record Office and the British Museum.

A fairly full connected account of the subject is contained in the following works in Portuguese:

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ON THE NEED FOR A NEW EDITION OF WALTER OF HENLEY

By Professor Eileen Power, D.Lit., Litt.D.

Read 12 *October*, 1933 [1]

The history of agricultural technique in the Middle Ages is a subject of obvious importance and interest, but in England, at least, it has never been systematically studied. It is true that the main outline of agricultural practice has been made familiar, as a result of the study of manorial documents, but there has been little attempt to investigate technical questions in detail, or to distinguish between the practice of different parts of the country. One branch of agrarian economy, sheep and cattle farming, has been almost entirely neglected, in spite of the fact that wool and hides were the staple export of England.[2] Nor is it only the technique of farming which awaits investigation ; the whole subject of estate management in the Middle Ages is almost untouched. Historians have in the main been

[1] This Paper was read before the Society, at short notice, on the occasion of the Exhibition of a newly discovered MS. of " Walter of Henley " from a Register of Mottisfont priory (see a special article in the *Times* of 13 October, 1933) and the Discussion of the need for a new edition of the four Treatises contained in the edition published for the Society in 1890, an annotated copy of which, indicating some variants found in the Mottisfont register, was also exhibited on the above occasion (see below p. 112). The subject has been dealt with also by Dr. Hubert Hall in the *Contemporary Review* for May, 1934.

[2] A beginning has, however, been made for sheep farming in two admirable articles, F. M. Page, " Bidentes Hoylandie," a Mediæval Sheep Farm, *Econ. Journ.* (*Econ. Hist. Suppl.*) (1929), pp. 603–13, and M. Wretts-Smith, Organisation of Farming at Croyland Abbey, 1257–1321, *Journ. of Econ. and Bus. Hist.*, IV (1931), pp. 168–92 ; the latter deals also with corn production. For cattle-farming, see the excellent account in G. H. Tupling, *The Economic History of Rossendale* (1927), ch. I.

content to study manorial organisation and those problems of tenure and of labour which can be observed in a manorial framework ; it is the legal rather than the economic side of agrarian history which has chiefly interested them. The result is that we have as yet no large-scale study of the organisation of a great estate for profit over a long period. Indeed, the neglect of the subject of sheep farming is probably due to the fact that it refuses to be confined within manorial limits, the production and sale of wool on the big estates being usually run from the centre.

Ample material nevertheless exists, both for a technical history of English agrarian economy and for a study of estate management during the last three centuries of the Middle Ages. The magnificent rolls on which are entered, year after year, all the details of estate management on the lands of the Bishopric of Winchester and, for a shorter period, of the Duchy of Lancaster (to mention no others), together with the large number of extents and account rolls from manors in different parts of the country, are an invaluable record of agrarian practice. The agrarian theory of the period, a no less interesting study, is to be found in the remarkable group of didactic treatises on farming and estate management, which is the subject of this paper.

In the history of agronomy the Middle Ages may be said to constitute a long gap between the famous agrarian writers of antiquity (Cato, Varro, Columella and Palladius) and the swarm of modern treatises which were inaugurated in England by Fitzherbert's *Husbandry*. Between Palladius in the fourth century and the Renaissance writers, the output is astonishingly meagre. If we set aside the Byzantine Geoponici and the Hispano-Arabic treatises (of which that of Ibn-al-Awam is the most considerable), mediæval Europe produced in nearly eleven centuries only three important contributions to the science of farming. The first consists of two works by thirteenth-century Italian writers, Burgundio of Pisa's treatise on viticulture (largely derived from the Geoponici) and the *Opus ruralium commodorum*

of Crescentius, written between 1285 and 1305. The second comprises a group of English treatises on agriculture and estate management, written between 1240 and the end of the century.[1] There are four of these, (1) *Les Reules Seynt Roberd*, a treatise on household management, containing some rules for estate management, and attributed to Grosseteste; (2) *Le Dite de Hosebondrie*, attributed to Walter of Henley, which is a treatise on estate management and agricultural technique; (3) an anonymous work entitled *Ceo est Hosebonderie*, which is mainly concerned with rules for keeping the manorial accounts and making the estate pay, and (4) another anonymous treatise, called *Seneschaucie*, which enumerates the various manorial officers and the duties of each. The famous law-book *Fleta*, belonging to the same century, is largely composed of extracts from Walter of Henley, *Seneschaucie* and the statute of 4 Edward I known as *Extenta Manerii*, and has very little original value, but the four treatises are of capital importance. The third contribution of the Middle Ages to scientific farming is a treatise on the care of sheep, written by one Jehan de Brie in 1379, on the command of Charles V of France, and entitled *Le Bon Berger*; the original of this has disappeared, but there survives an abridged version, printed in the first half of the sixteenth century.[2] This little treatise is peculiarly attractive. It is prefaced by an autobiography (surely unique in the period), in which the author recounts his rise from an eight-year-old herd boy, keeping geese on a country manor, to the position of seneschal in the household of a great lord, attached to the king's service, in the Palais Royal. To these works on the various branches of farming there ought perhaps to be added, for the sake of completeness, a group of treatises on gardening, belonging to the late fourteenth and early

[1] All four were edited by Miss Elizabeth Lamond, with an introduction by W. Cunningham, under the auspices of the Royal Historical Society in 1890.

[2] It was reprinted from the Paris edition of 1541 by Paul Lacroix in 1879.

fifteenth centuries. The best is incorporated in *Le Ménagier de Paris*,[1] a treatise on manners, morals and domestic economy, written by an anonymous citizen of Paris for his young wife about 1393. With it may be ranked a little work entitled *The Feate of Gardeninge*,[2] written in verse by an Englishman, "Mayster Jon Gardener," in the first half of the fifteenth century and preserved in a manuscript in Trinity College, Cambridge.

The thirteenth-century English treatises, with which we are here concerned, are undoubtedly the most original contribution of the Middle Ages to scientific agriculture. Their value lies in their strictly empirical character, for they appear to spring straight from the soil, owing nothing to their great classical forerunners. They are distinguished by a homely directness of diction, which has considerable charm. Walter of Henley, with his "Why? I will tell you," and the rustic proverbs in French and English with which he drives home his lessons, is a writer who catches the attention as adroitly to-day as he must have done in the thirteenth century. It is interesting to conjecture why the four treatises should have appeared all at once in thirteenth-century England, without either forerunners or successors in the Middle Ages. It would probably not be far from the truth if we regarded them as part of the intellectual revival connected with the friars, and particularly with the Franciscans, in that century. The empirical outlook of the great English schoolmen constantly led them in the direction of what we should to-day call physical and

[1] *Le Ménagier de Paris*, ed. Jérôme Pichon (2 vols., Soc. des Bibliophiles Français, Paris, 1846). English translation, *The Goodman of Paris*, translated with introduction and notes by Eileen Power (1928).

[2] It has been edited by the Hon. A. Amherst (Mrs. E. Cecil) under the title, "A Fifteenth-Century English Treatise on Gardening by Mayster Ion Gardener," in *Archæologia*, LIV (1895), pp. 157–72. There are two other fifteenth-century English treatises on gardening, one entitled *Godfrey upon Palladie de Agricultura* and the other by Nicholas Bollarde, a monk of Westminster, but they are merely adaptations from Palladius, though that of Bollarde contains a few original elements. Palladius himself was translated into English about 1420 (see *Palladius on Husbandrie*, ed. Lodge and Herrtage, 2 vols., E.E.T.S., 1872–9).

biological enquiry. An interest in the technique of agriculture may well have been born of the same impulse and it may be noted that some of the great encyclopædias of the time (such, for instance, as the famous works by Vincent of Beauvais and Albertus Magnus) contain brief sections on agriculture. Nor is it without significance that the treatises appeared in the century when demesne farming on a large scale was at its height. The farming of the thirteenth century was in the main bailiff farming, and the process by which the rent-roll grew in importance at the expense of the *exitus manerii* had not yet gone far. The fact that so many great estates were being directly farmed for profit by their owners, meant that there was a public for these treatises on scientific farming. It was for the large landowner that they were written and the surviving manuscripts whose owners are known all belonged to religious houses, with considerable estates. If we desire to explain the almost simultaneous appearance of these four important English treatises, we must remember that the thirteenth century was an age both of intellectual enquiry and of high farming.

The English treatises suggest two other questions besides the question as to why they appeared when they did. By whom were they written and by whom—in particular—were they used? Only two of them have come down to us with an author's name attached, and only one of those authors is otherwise known to history. The *Rules of St. Robert* were, as an introductory rubric informs us, drawn up by the famous Bishop of Lincoln, Robert Grosseteste, for a Countess of Lincoln, who is easily identified as Margaret, widow of John de Laci, and they must have been compiled during the period of her widowhood, from 1240 to 1242. But though the authorship and occasion of this little treatise are well known, it raises a number of problems. It seems likely that it may be an abstract or selection, based on a more comprehensive series of rules drawn up by the Bishop for the conduct of his own household; the 20th rule is (as Dr. Hubert Hall has pointed out) an analysis

of the diets used there. Again, the rules concerning the management of the household are oddly mingled with rules for the management of the manors and even for agricultural technique, and these have considerable affinities with the injunctions of Walter of Henley. For instance, Grosseteste condemns the folly of selling straw with grain, since it ought to be used as fodder or litter in the sheep-folds and eventually as manure; it ought to be scattered in the fold, and even threshed straw will do as well, if mixed with hay. Walter of Henley urges precisely the same practice. Now it is an interesting fact that there exists (in a fifteenth-century manuscript) a translation of Walter of Henley into English, which is attributed to Grosseteste. The attribution has usually been disbelieved, but there is no intrinsic unlikelihood in it, in view of his known interest in the subject, and the simple precaution of a linguistic examination of the text, to establish whether it is written in the English of the period, has never been taken. Indeed, these treatises have received singularly little attention from linguistic scholars, even in their original Anglo-French. Did Grosseteste translate Walter of Henley? Did he base his own agricultural rules on those of Walter? Or did he by any chance ever write an agricultural treatise of his own, which is partly incorporated in the *Rules* and which Walter of Henley may possibly have known?

Then there is Walter of Henley himself. How one wishes that he had been inspired to preface his treatise with an autobiography, in the manner of Jehan de Brie. But he did not, and the sum of our information about him is contained in the title of one of the Cambridge University Library manuscripts: "This *dite* did Sir Walter of Henleye make, that was first a knight and then made himself friar-preacher," and the fact that he himself says, in the course of the treatise, that he had been a bailiff. The book must have been written sometime between 1221, when the Dominicans came to England, and the date of the earliest manuscript, which Dr. Cunningham placed in the early years of

Edward I; but Dr. Hall thinks it doubtful whether any of the manuscripts are earlier than the latter part of Edward I's reign.[1] The place of origin of Walter of Henley is as uncertain as the date at which he was writing. It has usually been taken to be Henley-on-Thames, but there are potential Henleys in more than a dozen counties and we have no proof that Henley-on-Thames is the one concerned, or that Walter was connected (as has usually been supposed) with manors in Berks. and Bucks. Yet the matter is by no means without importance. If there is one thing that a study of mediæval agrarian history teaches us, it is the importance of local differences; and the detail of all these treatises must have been determined by the type of farming with which their authors were familiar. If we could establish which of the Henleys was Walter's birthplace, and, above all, on what manors he gained his experience as a bailiff and in what Dominican house he was professed, we should have gone a long way towards determining which of the manuscripts represents the earliest and purest version of the text.

The second problem raised by the treatises, after the question by whom they were written, is the question by whom they were used. The *Rules of St. Robert* were (we know) composed for a great lady and the Paris MS., in which Walter of Henley and the anonymous *Husbandry*, curiously jumbled together, occur at the end of a devotional work containing lives of the Saints, may well have been written for a great lady too. The existing manuscripts of Walter of Henley are mainly associated with the monastic scriptoria of Reading, Luffield and Canterbury, and we know also of manuscripts belonging to St. Mary's, Merton (Surrey), to Merton College (Oxford), and to Mottisfont (Hants). The treatise was obviously being used by mon-

[1] I should like to take the opportunity of acknowledging my indebtedness throughout this paper to Dr. Hall's special knowledge of the subject and to his never-failing kindness in communicating it.

astic houses in Northants, Berks., Kent, Surrey and Hants. Moreover, it was being used in a strictly practical manner. The scribes make free with the text in every possible way. One group of manuscripts contains a long section on sheep farming, which does not occur in another group, and some manuscripts add a detailed passage concerning the treatment of rot among sheep. One manuscript omits altogether the famous paragraph on the advantages of the three-field over the two-field system of husbandry. These variations are exceedingly significant, for there can be no possible reason for them except an attempt to adapt the treatise to the exigences of local farming. The presence or absence of the extended section on sheep is particularly interesting. It is sometimes suggested that this is a later interpolation, reflecting a presumed increase in sheep farming during the fourteenth century. But until the manuscripts are more precisely dated and until a decision has been reached as to which of them represents Walter of Henley's original version, we have no evidence as to whether the passages in question occur in the original or not, or as to whether they are early or late insertions. There is no reason for attributing them to an increase in sheep farming, since their presence or absence is equally well explained by the hypothesis that some manuscripts were made for a primarily arable district and others for a district in which sheep farming had a more important place. Moreover, it seems very doubtful whether there was any general increase in demesne sheep farming (and the manuscripts were made for the use of large landowners, not of small tenants) after the Black Death. It is not improbable that when the subject of sheep farming in England has been properly investigated, the peak years of wool production will be found to lie between 1250 and 1350, and particularly during the late years of Edward I, the reign of Edward II and the early years of Edward III, before his war taxation had bled the woolgrowers white. My own investigations are still in progress, but so far as they have gone they show that during

the latter part of the fourteenth and the early part of the fifteenth century, sheep were gradually being leased with the demesnes, and wool production was passing more and more into the hands of tenants, who were often small men. It was not for such men as these that the manuscripts of Walter of Henley were copied. But this is only by the way. The point to be noted is that the variations in these manuscripts were undoubtedly determined by the needs of practical farming and that, before anything is known about the way in which the treatise was being used, a detailed collation and analysis of the text will have to be set on foot, in order to establish the relation between textual differences and the provenance of the manuscripts.

There are a number of other problems suggested by these treatises, into which there is no time to enter here, but which ought to be considered. For instance, what is the relationship between the four treatises, and especially between Walter of Henley and the anonymous *Husbandry*, which do not seem to have been written quite independently? Again, how far do the treatises represent current practice, at least among intelligent landowners? Maitland, it will be remembered, regarded Walter of Henley as the Arthur Young of his day, an agrarian reformer describing an agrarian Utopia. It should be possible to obtain more light on this subject from the examination of manorial records.

So far we have been considering merely the general interest of these treatises on husbandry and the problems to which they give rise. I now pass to the question which we have met to discuss, viz., the necessity for a new edition of Walter of Henley's *Husbandry*, which would necessarily include editions of the other treatises.

The case is a strong one. The edition published in 1890 by Miss Lamond and Archdeacon Cunningham was a pioneer work of great importance and it has done yeoman service to scholars and teachers for over forty years. But it is now out of print and almost unobtainable. The only other

available edition is a facsimile of a sixteenth-century black-letter edition of the English translation attributed to Grosseteste. This facsimile is reproduced in a collection of agrarian treatises and excerpts therefrom, edited by Mr. F. H. Cripps Day under the title of *The Manor Farm* (Quaritch, 1931). But this attractive little book is expensive, and in any case does not pretend to fulfil the requirements of a critical edition.

But, it may be asked, granted that these treatises ought to be made easily available for students, why not be content with a reprint of the 1890 edition? For a number of good reasons. Much water has flowed under the bridges since 1890 and, useful as that edition has been, it is very far from perfect. When Dr. Cunningham wrote the introduction he had examined twenty-one manuscripts of Walter of Henley and was aware of the existence of five others, of which two seemed to have disappeared. He classified these manuscripts, from internal evidence, into four families.

1. A group of six connected with the Benedictine abbey of Reading.
2. A group of two, connected with another Benedictine house, Luffield (Northants).
3. A group of five, connected with Christchurch, Canterbury.
4. What he called the *Liber Horn* group, from the famous *Liber Horn* in the Guildhall. This group comprises six manuscripts, including one from Merton College and another important Oxford manuscript which came from St. Mary's, Merton (Surrey). The latter contains a Latin translation and another of the manuscripts in this group contains the English translation attributed to Grosseteste.

Subsequently, however, Dr. Cunningham expressed himself as dissatisfied with this tentative grouping and doubted whether sufficient reason existed for separating the *Liber Horn* group from the Reading group. Having thus classified the manuscripts, Dr. Cunningham and Miss Lamond

had to choose one of them as the basis of the edition and the Luffield MS. in the Cambridge University Library was selected, as probably representing the earliest version of the treatise. The method adopted was to print the Luffield text as it stood, without correction or collation. At a later stage, however, a rather casual collation was made with a British Museum manuscript belonging to the Canterbury group, and a number of dubious passages in the Luffield text were thus corrected in footnotes. But this was done in a most haphazard manner. There was no attempt at a complete collation and in a number of cases the obvious corruptions of the Luffield text were allowed to stand without alternative readings, thus creating a series of irritating difficulties for anyone who attempts to use it in detail.

There would appear to be two incontrovertible reasons for a new edition. One is that the 1890 edition is in itself not sufficiently critical, the other that several new manuscripts have been discovered since it appeared. Cunningham does not make out a very good case for his selection of the Luffield MS. as the earliest and best version (Dr. Hall inclines to the opinion that the Reading group probably represents an earlier arrangement). Moreover, even if he were right, the text ought surely to have been thoroughly collated with the best of the other manuscripts, in order to avoid its obvious corruptions. It is difficult to see how a decision as to which is the earliest version can be made, without pursuing further the attempt to identify Walter of Henley or at least to decide from what part of the country he wrote ; and for a really critical edition it is essential that the provenance of all the manuscripts should be examined and the differences between them carefully classified and analysed.

Since the 1890 edition appeared, moreover, several important manuscripts have come to light. In his article in the *Transactions of the Royal Historical Society* for 1895,[1] Dr. Cunningham announced the discovery at Cambridge

[1] " Walter of Henley," *Trans. R. Hist. Soc.*, Vol. IX (1895), pp. 215–21.

by André Réville of two other manuscripts, one of Walter of Henley and the other of the Anonymous *Husbandry*, the former of which may be the one noted as missing in 1890. To these we have now to add the early and important version in the Mottisfont MS., which, by the courtesy of the owner, Dr. Hall has been allowed to exhibit to the fellows of the Royal Historical Society at this meeting. This manuscript is an early fourteenth-century Rental (*c.* 1322–45) of the Austin Priory of Mottisfont (Hants). which has been preserved among the title deeds of the families of Sandys and Mill (now represented by that of Barker-Mill) since the dissolution of the Priory in 1536. On the fly leaves of this Rental is a copy of Walter of Henley's *Husbandry*, supplemented by two chapters of the *Seneschaucie*, made by a scribe who can be identified with the cellarer and monk-bailiff of the house, between 1443 and 1445. As Dr. Hall points out in the descriptive note which he has attached to the Exhibit, it is specially interesting in view of the fact that it was made for the use of the priory in connection with the extent or survey included in the Rental, in accordance with the method enjoined by Walter of Henley himself. The copy apparently belongs to the Reading family of manuscripts, and in a large number of cases its readings are preferable to those of the printed text.

In fine, to sum up these rather inadequate remarks, the subject of mediæval agrarian technique is of great importance and is one for the investigation of which material is ready to hand. Of that material the group of thirteenth-century English treatises, and particularly Walter of Henley's *Husbandry*, is an essential part, but before the best use can be made of them, it is necessary to have a new and critical edition of the text. The subject is of interest to linguistic as well as to historical students, and it is greatly to be hoped that the Council of the Royal Historical Society will find means to undertake the preparation of a new edition and will set the work on foot as quickly as possible.

Discussion.[1]

Professor E. F. Gay [2] (Harvard University) said that he had listened to Professor Power's eloquent and thoughtful address with great interest and profit. It supplied valuable assistance to those who were attempting to solve some of the problems connected with the industrial conditions in English towns and villages between the fourteenth and seventeenth centuries. He had taken part in previous inquiries with regard to other problems, the results of which had been published by this Society.[3] More recently he had been concerned with Sir William Beveridge in further inquiries on behalf of the international Price History Committee, but there was need of still more research to clear up points that were still obscure. Among these he might mention the serious results of the persistent pilfering by industrial workers to which Thorold Rogers had long ago called attention. This lax morality was a commonplace of those early treatises on the management of manorial estates which they were now considering, and in order to clear up this and other matters it was important to have the best texts obtainable. He ventured to hope, therefore, that the Society would be able to bring its own text up to date.

Professor R. H. Tawney said that what struck him on reading the book of Walter of Henley was, first, its practical character, and second, the fact that the instructions contained in it are much the same as those appearing in works on agriculture three centuries or more later. Its maxims as to the use of seed produced on soils different from those on which it is to be sown, as to different kinds of soil, and as to manuring continue to be repeated by the writers of the early seventeenth century, not because they had been

[1] Sir William Beveridge, Dr. A. G. Little, Dr. E. R. Lipson, Miss M. Wretts-Smith and Mr. Cripps-Day were unable to take part in the Discussion.

[2] This report of Professor Gay's speech has not been revised by him owing to unavoidable delay.

[3] *Transactions*, N.S., XIV and XVIII.

borrowed from it, but because they represent traditional lore.

He was particularly interested in Professor Power's remarks as to the varying versions of the MS. of the treatise corresponding to the different agricultural methods of different regions. Most modern treatises of agriculture are open to two criticisms. They are largely concerned, not with agriculture, but with land-tenure, and, in dealing with agriculture, they too often describe it as though its methods were uniform over the greater part of the country. Such a feature is illusory. In reality there were considerable differences between the farming of say Norfolk and Sussex, or of the Cotswolds and the Vale of Gloucester. On re-reading Walter of Henley's book, Professor Tawney could not help asking himself whether it might not be possible to get a clue to the part of the country from which the author came from his instructions as to the procedure to be followed. He is primarily concerned, for example, with arable farming and treats cattle as plough-beasts, which rules out perhaps a district, like parts of the north-west, which specialised in raising cattle, and an examination of his treatment of sheep might also reveal some local peculiarities. Perhaps the critical edition which is to be hoped for may throw light on these and analogous questions.

Professor Bertha Haven Putnam, speaking not as an expert but as a teacher, could testify that American undergraduate students read no mediæval work with greater pleasure than Walter of Henley's treatise. The case for a new edition of the text-book seemed to her absolutely proved. She might add the wish that in the necessary research for this purpose it may be possible to find some other treatise on agriculture to fill the gap between Walter of Henley and Fitzherbert. Miss Power's mention of a neglected French treatise on sheep had made the speaker wonder if there may be somewhere in existence, in England or abroad, similar treatises still unknown.

Mr. Reginald Lennard expressed warm approval of

the scheme for a new edition of Walter of Henley. He was very glad to hear that it was proposed to include the other tracts which had been included in Miss Lamond's volume. He would like to make two suggestions. The first was that the proposed volume should also be made to include what deserved to be considered a fifth treatise of the same class, though it had been rather overlooked—the *Scriptum quoddam* which was incorporated in the Gloucester Cartulary.[1] He had never examined the MS. of this, but the printed text seemed to be corrupt and a critical edition was needed. The second suggestion was that a good translation should accompany the text of the tracts. This would greatly increase the usefulness of the proposed volume for many students, and it would also appeal to a larger public.

Dr. J. F. Nichols observed that a careful consideration of the Canterbury MSS. of Walter of Henley's treatise, in their association with contemporary manorial records, would possibly indicate Suffolk and Essex in the provenance of at least one version. The Canterbury Register Book J was written when Henry of Eastry was Prior, a man of exceptional energy and enterprise, conspicuous for his skilful management of the conventual property. It contains a copy of the extents of the manors of the Custody of Essex (i.e. Essex and Suffolk) prepared by John le Doo, the Steward, as well as a copy of Walter of Henley's treatise. Another Canterbury Register (B.M. Add. MS. 6159), which also has a copy of the treatise, contains a copy of John le Doo's extent for Borley, one of the Essex manors, and it is significant that extents of the same elaborate character do not exist for the manors of the other custodies (East Kent, the Weald, and Surrey). A study of John le Doo's extents shows very clearly the influence of Henley's treatise, and the very valuable series of bailiffs' accounts for these manors provides ample material, when considered in relation

[1] *Scriptum quoddam super dispositione domus et familiae* [Gloucester Cartulary, Rolls Series, Vol. III, pp. 213–21.]

to the extents, for determining how far the precepts of the treatise were observed in actual farming practice.

Miss Joan Wake suggested that the observations of some practical and intelligent farmer of to-day might throw light on points that would be missed by scholars. As to the linguistic problem, one point to note seemed to be that such a treatise would naturally be written in either French or English for the use of ladies.

SIR JOHN FORTESCUE AND HIS THEORY OF DOMINION [1]

(*The Alexander Prize Essay*)

By S. B. Chrimes, M.A., Ph.D., F.R.Hist.S.

Read 14 *June*, 1934

If an attempt were made to define the tendency of political thought in England during the fifteenth century, it would be destined to failure unless it gave expression to opposing views of the character of the time. Here, as elsewhere, the historian's most difficult task is to form not merely generalisations that will sum up part of the facts, but generalisations that will take account of all the facts, however irreconcilable they may seem. The task of establishing general statements about the fifteenth century is especially troublesome, for the character of no century in English history is more open to conflicting interpretation. The reason for this conflict is not the so-called transitional aspect of the period, for every century is transitional, and every historical generalisation must express a transition of some sort. The source of the conflict goes much deeper than that, and is to be found rather in the sheer contradictoriness of our evidence. From one standpoint the most remarkable

[1] I have three acknowledgments to make in connexion with the preparation of this essay. To Dr. Gaillard Lapsley I am indebted for many fruitful conversations upon the general theme, and for reading critically the manuscript of the essay prior to its printing; to Miss H. Cam, for some stimulating correspondence upon several aspects of the subject; and to Professor McIlwain, for his suggestive remarks in the relevant portions of his *Growth of Political Thought in the West*. Each of these scholars has contributed much to my own view, but I am not in entire agreement with the views of any of them.

features of the century seem to be its conservatism, its lack of originality, its old-fashionedness. We see in it the absence of new theories to explain new facts, and the vain effort to accommodate new facts to old theories. We see the leading figures of the time struggling like old men in a new world, forced to grapple fresh problems with old mentalities. The period then seems to us, as it did to Stubbs, "a worn-out helpless age, that calls for pity without sympathy, and yet balances weariness with something like regret"[1]; we are led to regard it as a mere degenerate continuation of the fourteenth century, and see it as the bleak and barren winter of the mediæval epoch. But from another standpoint its most striking features seem to be quite different. Its many anticipations of later ways of thought, its abundance of fruitful precedents, the novelty of many of its problems, are impressive. Its turbulent restlessness we feel must have been mental as well as practical. We note its literary activity, its intellectual contacts abroad, and the seeming modernity of many of its governmental forms, and we are thus led to think of it as the century of *Frühhumanismus*, of constitutional experiment and new monarchy, as the seed-time of the modern epoch.

Now there is perhaps one tendency in the political thought of the fifteenth century a definition of which reflects both these interpretations, and that tendency was towards a change in its subject-matter. Political thought was becoming less exclusively a theory of monarchy, and more a theory of the state. This tendency is noticeable in many expressions of political concepts made by active politicians, even though theory was still shot through and through with notions of kingship. It is true that the theory of the only outstanding political thinker of the century, Fortescue, is essentially a theory of kingship rather than of the state, and of dominion rather than of kingship; yet it is also closely connected with a theory of what we should call the state, and there are indications, from the century as a whole,

[1] *Const. Hist.*, 5th ed., III, p. 638.

of the currency of a conception of the *respublica*, commonweal, or state, which transcends theory of a purely monarchical derivation. Talk of the body politic, elaborate anthropomorphic conceits,[1] concern for the *respublica Angliæ*[2] and the "whole weal publique," and questions of "politic governance"[3] are all characteristic of the period, and all are significant commonplaces of everyday political thought. Speculation on the mutual duties of king and subject was no less prominent then than before[4]; but other topics were being canvassed: topics the discussion of which might one day radically affect that speculation. The *utilitas regni* and the public good[5] were being mooted, and these considerations were not far removed from the corrosive yet creative Reason of State, which, it has been well said, "has its roots deeper in time than we often imagine."[6] We can see, therefore, in the fifteenth century, the beginnings, at

[1] Bishop Beaufort of Lincoln, the chancellor in the parliament of 1404, compared any realm to the body of a man, of which the left part resembled the Holy Church, the right part the Temporality, and the other members the Commonalty (*Rot. Parl.*, III, p. 522). Thomas Chaundler, warden of New College and chancellor of Oxford, quoted Plutarch's comparison of the state to an organism, and applied the analogy to England, in a letter to Bekyngton, dated 6 January, 1452 (*Official Correspondence of T. Bekyngton*, Rolls S., I, pp. 267–8). Bishop Russell frequently used the phrase "public body" in the drafts of his parliamentary sermon of 1483. He also elaborated an anthropomorphic analogy (*Grants of Edward V*, Camden Society, 1854, p. xlvi). Cf. his passage on the "mistik or politike body of the congregacion of the peuple" (*ibid.*, p. li). Cf. "*corpus politicum*" in Fortescue, *De Laud.*, ch. xiii. The elaboration of anthropomorphic analogies was common on the Continent at this period (see Gierke, *Political Theories of the Middle Age* (ed. and trans. F. W. Maitland).

[2] *Official Correspondence of T. Bekyngton*, Rolls S., I, p. 78; *ibid.*, 267–8 (Chaundler's letter cited above, n. 1); *Gesta Henrici Quinti*, 73, 107; *Vita Henrici Quinti*, ed. Hearne, 5.

[3] Scrope's Articles of 1406 as in *Inner Temple MSS. Petyt* 583. 17, fo. 237a; *Rot. Parl.*, V, pp. 246, 280, 290; VI, p. 168; cf. Russell's sermons, *loc. cit.*, *passim*.

[4] For discourses on duties of kings and subjects in parliamentary sermons, see *Rot. Parl.*, III, p. 662; IV, pp. 261, 295, 316. Cf. *Official Correspondence of T. Bekyngton*, Rolls S., I, pp. 290–1 (letter from the bishop of Bayeux to Humphrey of Gloucester).

[5] See references cited above, ns. 2 and 3, and Gascoigne, *Loci e Libro Veritatum*, 230–1.

[6] E. F. Jacob, in his article, "Changing Views of the Renaissance" (*History*, October, 1931 XVI, p. 209).

least, of a process that was to merge the sacred mystery of kingship into a theory of the state which might be sacred but was not mysterious.

Moreover, political thinking was becoming less abstract and universal, and more concrete and particular. Discussion was concerning itself not simply with *respublica* and kingship, but with the *respublica Angliæ* and the English kingship. Far-reaching theoretical assertions were being bandied about, in the English tongue, in rebellious manifestos,[1] and in political tracts.[2] The era of English political pamphleteering had begun. Besides, a central clearing-house was now available for the exchange of political notions of all kinds, commonplace or original. In the parliament house at Westminster,[3] many men—country squires and burgesses of rural towns, whose book-lore was small, and whose acquaintance with learned doctrines was very distant—heard the language and learnt the terms of political theorising, often, perhaps, for the very first time. Chancellor after chancellor sermonised the parliament, and few of the faithful commons could have escaped these homilies without some political edification. Doubtless most of these parliamentary sermons contained little but orthodox and trite thought, but their important result was the diffusion of political concepts, phrases, and words among people from diverse parts of the country, many of whom had never before heard a political theory formulated, or concept enunciated, or formal contention stated. The theoretical education in politics of the plain man had begun.

[1] See Scrope's Articles in Gascoigne, *loc. cit.*, and in *Inner Temple MSS. Petyt, loc. cit.* For the important articles of Kent in 1450, see *Magdalen College, Oxford, MSS.* (Hist. MSS. Comm., 8th Report, 266–7) and p. 147, n. 1 below. Kingsford, in *Eng. Hist. Literature*, 359–60, omits the valuable articles enunciating theory.

[2] See, for example, Fortescue's tracts on the succession question, and *Somnium Vigilantis* (*E.H.R.*, 1911, p. 512), also attributed to him, and called by Kingsford " perhaps the earliest political pamphlet in English prose." Cf. p. 127, n. 2 below

[3] About three-quarters of the parliamentary meetings between 1399 and 1497 occurred at Westminster. See *Interim Report* on House of Commons Personnel and Politics (1932).

The political theories of the plain man might one day move mountains; but as yet there was little systematic thought in politics. There may have been a good deal of informal thinking, and undoubtedly there was much repetition of political clichés. But only one man, so far as we know, wrote up, in a more or less systematic way, the results of his meditation on the political phenomenon, and he was no professional theorist, but a practising lawyer, an active politician, and a zealous dynastic partisan. The political theorising of Sir John Fortescue has to be taken as representative of the thought of his time, and as such needs close examination. For our estimate of the state of political ideas in fifteenth-century England must very largely rest upon our understanding of his work, and upon it as it really was, not as it seemed to the controversialists of the seventeenth and later centuries. The use made of Fortescue by both parties in the constitutional struggles of later centuries is standing testimony to the Janus-facedness of a publicist of a "transitional" era[1]; but the historian has too often assumed that the views of the winning party in those struggles were also substantially the views of Fortescue himself. The purpose of the present essay is to analyse the central doctrines of Fortescue's political theory, and to estimate their meaning as precisely as may be in modern language.

I

The outstanding facts of Fortescue's life are so sufficiently set out and so readily accessible in Plummer's introduction to his edition of *The Governance of England* that there is no need to recapitulate them here in any detail. The main outline of his career and the circumstances in which his chief works were composed have, however, an important bearing on our present purposes, since the work of no political writer can be accurately understood without reference to its setting.

[1] C. A. J. Skeel, "The Influence of the Writings of Sir John Fortescue," *Transactions*, 1916, 3rd Series, X, pp. 77–114.

Fortescue was born probably during the last decade of the fourteenth century, and the latest notice of him comes from the year 1476. He was descended through a younger branch from a knightly family of Norman-Conquest origins, and was the son of an Agincourt warrior who was at one time governor of Meaux. He became, according to one authority, a member of Exeter College, Oxford, but a good deal of uncertainty attaches to this assertion. Whether or not he was ever at Oxford, his membership of Lincoln's Inn was undoubtedly the dominating factor in his education—he became decidedly an Inns of Court man. His early days at the bar are obscure, not least because very few lawyers except serjeants appear at that date in the Year-Book reports.[1] After his becoming a serjeant in 1429 or 1430, this obscurity diminishes; thenceforward there are many notices of his acquisition of property in various counties, and he figures frequently in the law reports. He acted as judge of assize in 1440 and 1441, and in the latter year was appointed a king's serjeant, an official whose duties resembled those of the modern Attorney- and Solicitor-General.[2] He was promoted, in the following year, to be chief justice of the King's Bench, and was knighted soon afterwards.

The new chief justice was concerned, during the next twenty or so years, with several cases of considerable constitutional and political importance, in addition to the ordinary routine business of the courts. He was connected with the trial of the duke of Suffolk in 1450; he sat on the special commission in Kent in that year, was consulted in the famous Thorpe's case and on the duke of York's claim to the throne. Moreover, the latter part of this time was the period of his zealous Lancastrian partisanship, a partisanship which led him to throw in his lot with Queen Margaret

[1] On this topic, and for the suggestion that the Year Books were closely connected with the body of serjeants, see T. F. T. Plucknett, "The Place of the Legal Profession in the History of English Law," *L.Q.R.*, July, 1932, p. 328 *et seq.*

[2] Holdsworth, *Hist. Eng. Law*, II, p. 487.

at about the time of the battle of Towton, in March, 1461,[1] and which eventually brought him to exile, first in Scotland and then on the Continent, during some nine years before the Lancastrian restoration of 1470–1. Fortescue showed himself, in these difficult and dangerous years, to be one of the most energetic counsellors and schemers of his party, and he took a prominent share in negotiating the alliance between Margaret and Warwick. But after the final defeat of the Lancastrians at Tewkesbury, he abandoned the lost cause, and in due time was pardoned by Edward IV. He secured, nevertheless, the reversal of his attainder and the restoration of his estates only on condition of writing a refutation of the arguments he had concocted against the Yorkist title. This task was hardly a very difficult one, and it was accomplished with success. The remainder of his days were spent in a certain—or rather, uncertain—amount of literary activity, and in the peaceful enjoyment of his extensive property.

Fortescue's political thought is contained in three outstanding works. The first of these, the *Opusculum de Natura Legis Naturæ et de ejus censura in successione regnorum suprema*, appears to have been written, probably in Scotland, between the years 1461–3. The work is in two parts, and the first of them is the most important and elaborate of his theoretical compositions and the most scholarly of all his works. It is ostensibly a discussion of the Law of Nature, but it contains much the fullest account we have of his political thought—there is no political doctrine of his to be found elsewhere in his writings, except in chap. xiii of the *De Laudibus* and its précis in *The Governance*, that is not to be found in this treatise. Nevertheless, it has been greatly neglected by historians, for several but insufficient reasons. It is a comparatively rare work. This first part exists in only two manuscripts, and both parts together in

[1] C. Scofield, "Sir John Fortescue in February, 1461," *E.H.R.*, 1912, pp. 321–3. Whether he joined the Queen just before or just after the battle of Towton is uncertain.

only one, and neither was ever printed at all until 1864, when Lord Clermont published both parts privately. This version was superseded by that provided with notes and translation by Chichester Fortescue, later Lord Carlingford, in Lord Clermont's complete edition of his ancestor's works, published in 1869. Lord Clermont's edition, admirably executed though it was, is as limited in the number of its copies as it is exhausting in its bulk.[1] The *De Natura*, moreover, never figured in the controversies of a later age, as did Fortescue's other works, and it therefore has received neither the publicity of facile translation accorded to the *De Laudibus* nor the popular accessibility of *The Governance* in Plummer's edition. The provision of exact and convenient texts of the *De Natura* and of the *De Laudibus* would supply a very desirable corrective of the false light in which Fortescue has been put by zealous and eloquent translators of the eighteenth century and later, and by the Whiggish learning of Plummer.

The purpose subserved by the *De Natura* is the determination of the right of succession in sovereign kingdoms (*in supremis regnis*). This right, it is decided at the start, can be settled only by reference to the law of nature, and the first part of the work is devoted to a discussion of this law. This discussion, however, leads to an account of the origin of kingship, of the types of kingship, of their differences and resemblances, of the history of various monarchies, of the theory of law, and cognate themes. The light of the law of nature is shed, in the second part of the treatise, upon an imaginary instance of rival claims to the throne put forward by a late king's daughter, by his brother, and by his daughter's son. This second part forms the most extensive work on the succession question that was written during the period, perhaps that has ever been written, and together with the first part affords a unique and indispensable revelation of the mentality of the age. The

[1] The Complete Works are limited to 120 copies, and are printed in one large volume.

arguments therein for and against the succession of the king's brother, to whom the law of nature ultimately gave it—as was indeed necessary for the advancement of the Lancastrian cause—are most elaborate and often very cogent, and illustrate effectively the extreme difficulty of the succession problem. The theory of kingship as a public office, and the theory of it as a piece of real property, the absence of any clear and consistent legal doctrine on the question, the consciousness of the inadequacy of the ordinary private law to determine it, and the groping after some ruling of what we should call public law, are outstanding features of the work. These characteristics make it by far the deepest, most interesting, and most important of all Fortescue's writings. This was his *magnum opus*; his other works were mere popularisers and tracts compared with this, which is solid, substantial, and learnedly argued. It is a treatise, not a eulogistic essay like the *De Laudibus*, nor a plea for administrative reform like *The Governance*. Upon this, rather than upon his better-known writings, Fortescue's reputation as a scholar and thinker must ultimately rest.

His second main work, the *De Laudibus Legum Angliæ*, was composed between 1468 and 1470, whilst he was still in exile on the Continent. It is in the form of a dialogue between himself and Prince Edward, and is mostly a work quite literally *de laudibus*; it is in praise, however, not only of the law and lawyers, but also of the people, standards of life, and monarchy of England, especially to the disparagement of those of France. It also contains a repetition of some of the political theory of the *De Natura*, and in its crucial thirteenth chapter advances a theory of the origin of one type of kingship which has often been a source of comfort to Whiggish-minded historians, and to Tories a provocation to ingenuity. The *De Laudibus* has been a very popular work, both on account of the use made of it by the constitutionalists of the seventeenth and eighteenth centuries, and on account of its convenience as

a text for law students. It has been reprinted more than a dozen times since 1537. But, unfortunately, some of the constitutionalist aspirations of its earliest translators have clung to the work ever since; and the modern student is still obliged to read it in an inexpert translation made by Francis Grigor in 1737, and reprinted, without correction or comment, in a cheap form in 1917. The only modern Latin text available is that provided in Lord Clermont's ponderous tome, which, moreover, offers as a translation merely another reprint of Grigor's translation. This rendering is decidedly free and stylish,[1] and has enlightened Fortescue's words with the liberal intuitions of the post-Glorious Revolution generation ever since it was published. A modern critical edition of the *De Laudibus*, as well as one of the *De Natura*, ought to figure in the list of *desiderata* which every acquisitive student makes for himself.

The so-called *Governance of England* was the third composition in Fortescue's trilogy, and was probably his last work. It comes from the period 1471–6, but whether it was written originally for Prince Edward and was later adapted for Edward IV, or whether it was initially composed for the king, is uncertain. It is the most disjointed of all his writings, and there is no evidence of its original title, if any. The title now adopted for it, which was invented by Stowe,[2] is sufficiently vague to cover its miscellaneous contents. The work opens with two or perhaps

[1] Cf. especially the Latin original with Grigor's translation of chapters xiii, xviii, and xxxvii. It is, however, not so much verbal errors that make Grigor's translation objectionable, as the general impression it gives the reader. We are forced by it to read Fortescue through early eighteenth-century spectacles.

[2] Plummer states (*Governance*, 86) that the title "*Governance of England*" is to be found in *Yelverton MS.* 35. But this statement appears to be erroneous. The title quoted from that manuscript by Bernard's Catalogue is "*Questio quid differt inter dominium regale et dominium politicum et regale.*" The only manuscript that has the title "Sir John Fortescue upon the Governance of England" is *B.M. Harleian* 542, and this, as Plummer mentions, is in the handwriting of Stowe, who presumably invented the title.

three [1] brief theoretical chapters, which add nothing to his earlier expositions of political theory, and it passes on to make suggestions which have no relevance to these chapters: suggestions for the increase of the king's revenue, for the reform of the personnel of the council, and for the reduction of extravagance in the bestowal of rewards. The theoretical importance of *The Governance* is very slight, since in this respect it is little more than a summary of the author's previous compositions; it is not of any further constitutional significance, for no fresh question of rights is raised. The work is simply a tract of practical suggestions for administrative improvements, and resembles a memorandum more than any other species of composition. It may well have been written originally as a political memorandum similar to those known to have been composed by Fortescue at various times, and have been subsequently issued as a tract with three theoretical chapters prefixed to it.

These three works contain all the evidence we have of Fortescue's political thought. His several avowedly dynastic tracts, and his own refutation of them, though of the greatest interest for a study of the succession problem, hardly contribute anything to the cardinal doctrines of his political theory. A certain pamphlet, generally called the *Somnium Vigilantis*,[2] which has some political value, has been attributed to Fortescue, but with doubtful plausi-

[1] Ch. i, "The Deference bi twene Dominion *Regale* and Dominion *Politicum et Regale*." Ch. ii, "Whi Oon King Regneth *Regaliter* and Another *Politice et Regaliter*." Ch. iii, "Here Bien Shewed the Fruytes of *Jus Regale* and the Fruytes of *Jus Politicum et Regale*."

[2] J. P. Gilson suggests (*E.H.R.*, 1911, p. 512) that this tract, which he there edited as "A Defence of the Proscription of the Yorkists in 1459," was written by Fortescue, on the grounds that it occurs in a manuscript volume containing other works undoubtedly by him, and that it was probably composed by a Lancastrian lawyer. Kingsford (*Eng. Hist. Lit.*, 167–8) thought this ascription plausible. But there is little to show that the tract was the work of a lawyer, and its English style, excessively latinised as it is, seems to differ notably from that of Fortescue's known English works. It may be his work, but the differences in vocabulary and style between it and Fortescue's known writings seem to be wellnigh fatal to the supposition.

bility. Fortescue's other writings, legal and pietistic, and his Legal Judgments (usefully collected at the end of Lord Clermont's edition of the Works) do not concern our present aims.[1]

II

The theory of dominion had a long history behind it at the time when Fortescue was writing, and we are bound to regard him as one in a series of exponents of that theory, and to set his doctrines in the perspective of antecedent usage and thought. The mediæval theory of dominion was a theory maintaining the pre-ordained rightness of the relation of superior to inferior. It envisaged the whole of creation as the sum of parts which either served or were being served by one another. The sources of this theory were ancient. Its root was to be found in Aristotle's theory of slavery and subjection, and its growth was profoundly influenced by doctrines of a feudal character. Germanic notions of land-tenure contributed to its development, and the theory thus modified went far to explain the typical feudal fusion of government with landownership, and to resolve the paradox involved in the common circumstance of the king's being supreme landlord without thereby cancelling all the proprietary rights of his subjects.[2] Many subtle distinctions could be drawn from such a theory. All property might be considered as dominion, but it did not follow that all dominion conferred proprietary rights in the fullest sense, though it did in a restricted sense. Every dominion was a right of use, but not every right of use was dominion. Possession, which was the fruit of dominion, had to be distinguished from dominion or the right of use itself; for a man might grant a thing to the use of another whilst retaining the dominion to himself, and no one could

[1] All references hereinafter to Fortescue's works are to Lord Clermont's edition, except those to *The Governance*, for which Plummer's edition is cited. The *De Natura Legis Naturae* is referred to by the letters *N.L.N.*

[2] See the standard histories of mediæval political theory, especially C. McIlwain's *The Growth of Political Thought in the West*, 1932.

exercise his dominion, that was, use the thing over which he had dominion, unless he had possession of that thing. Thus both a king and his baron had dominion over a barony, but the barony was not their property equally; for the king's right of use of the barony was different from the baron's, and was restricted to what we should call public purposes. Nevertheless, the king had a proprietary right to his dominion, and there was a distinction between property that was dominion and property or right of use that was conferred by dominion, and also between dominion that was the right of use and possession that was actual use. It was thus possible to accord to the king *proprietas dominii* without prejudice to the *proprietas rei dominatæ* of his subjects. The theory of dominion, in short, could reconcile the proprietary right of the king to rule with the proprietary rights of his subjects to possess. The king's dominion might limit for his subjects the exercise of their dominion, but not their dominion itself.[1]

Such, in essence, was the fruitful theory of dominion as expounded by Richard Fitzralph, archbishop of Armagh, about a century before Fortescue wrote. Earlier still it had been elaborated, in more metaphysical and less juristic form, by Egidius Romanus, whom Fortescue actually cited as one of the authorities for his own classification of dominions. Wycliffe had made a version of the theory notorious about the time of Fortescue's birth. It is true that Fortescue did not provide any definition of the term "dominion" in his usage; but he gave a clear indication that dominion in the polities which he described had in it a strong element of full-blooded lordship over others *ut servis* to the use and benefit of the dominator. This, he said, citing St. Thomas, was the only dominion known outside the state of innocence. There were, indeed, on his own showing, three types of dominion, each with diverse

[1] McIlwain, *op. cit.*, 356–7; and Richard Armachani, *De Pauperie Salvatoris*, Lib. I, ch. ii, in Johannis Wycliffe, *De Dominio Divino*, ed. R. L. Poole, 1890, pp. 279–80.

beneficial effects, but obviously none of these could be *dominium in statu innocentiæ*.[1] We cannot doubt that Fortescue used the term in much the same sense as his predecessors used it; to him its meaning was sufficiently obvious to call for no explicit explanation. To him, as to Fitzralph, it must have meant *dominium ad bona unius regni sive regiminis unius domini super multos minores dominos*. His usage of the term, to be sure, was not entirely consistent; he sometimes substituted for it the words "*regimen*," "*principatus*," or "*regnum*."[2] But "dominion" is the typical word in his writings, and his political theory is a theory of dominion.

We ought, therefore, to eschew the common practice of translating his word "*dominium*" by the modern word "government." These words are not equivalent, for "*dominium*" has in it an element of lordship which the modern "government" has not. Fortescue's theory is primarily a theory of lordship,[3] not of the state, and we do well to mark the fact by refraining from translating his terms into those of modern political science, and by calling his *dominium* simply and strictly what it is, namely, dominion.

III

Fortescue's political thought is descriptive rather than analytical, and its substance is a differentiation of types of dominion and an explanation of their origin. He distinguished three types, and explained the origins of two of them. An analysis of these two themes exhausts all that is

[1] What seems to be the nearest approach to a definition of dominion in Fortescue's writings is to be found in *N.L.N.*, I, ch. xxxiv.

[2] For the term "*regimen*," see *regimen politicum* (*N.L.N.*, I, chs. xvi, xxvi, and *De Laud.*, ch. xxxvi); *regimen plurium* (*ibid.*, ch. xxiii); *regimen regale et politicum* (*ibid.*, ch. xxxvi, and *Govern.*, chs. i, ii); *regimen tantum regale* (*De Laud.*, ch. xiv, and *Govern.*, chs. i, ii). For the term "*principatus*," see *principatu nedum regali sed et politico* (*De Laud.*, ch. ix); *principatu politico et regali* (*N.L.N.*, I, pp. 63, 188); *principatu tantum regali* (*N.L.N.*, *ibid.*). For the term "*regnum*," see *regnum politicum* (meaning *dominium regale et politicum*—see p. 140 below) (*De Laud.*, ch. xiii); *regnum crevit politicum et regale* (*ibid.*).

[3] Cf. especially the opening lines of chs. i and ii of *The Governance*.

important in his political theory, and with him classification came before explanation. He particularised the characteristics of the three dominions in varying detail. The regal dominion and the dominion regal and political were described with some fulness, but the political dominion was sketched very meagrely, and figures very much as a drone in the hive ruled by the mixed dominion as queen-bee.

The differentiating features of the regal dominion were these. The head (*ille preest*) ruled according to such laws as he made himself, and his own thought was law. He possessed the realm in hereditary right; the people could not legislate without his authority, and they were subject to his dignity. He could change the law and impose taxation without consulting them.[1] He was free to sin in the exercise of his dominion.[2] Regal dominions such as this (*regna tantum regaliter regulata*) were exemplified in the ancient histories of Nimrod, Belus, and Ninus; in part of the history of the Roman empire; and in the monarchy desired by the Israelites.[3] In more recent times, the kingdom of France afforded a most instructive example of this type.[4] This dominion under good princes was like the kingdom of God, and many Christian princes ruled by its laws.[5]

But these features were lacking in the political dominion. Here the head ruled according to laws which the people had instituted (*leges quas cives instituerunt*).[6] The political dominion, alone, admitted of a plurality of rulers; a regal dominion never did.[7] Rome under the consuls was an example of this type of dominion.[8]

The third type was a combination of some of the features —nay, of the merits—of both the regal and the political dominions.[9] Such a combination varied in its constituent

[1] *N.L.N.*, I, ch. xvi.
[2] *Ibid.*, ch. xxvi.
[3] *Ibid.*, ch. xvi; *De Laud.*, ch. xii; *Govern.*, ch. ii.
[4] *Govern.*, ch. iii.
[5] *Ibid.*, ch. ii.
[6] *N.L.N.*, I, ch. xvi.
[7] *Ibid.*, II, ch. iv.
[8] *Ibid.*, I, ch. xvi.
[9] *De Laud.*, ch. xxxvii.

elements. Rome under the emperors was at one time a regal and political dominion; for though the emperor's wish was law for all his subjects, and though he did not always consult the senate nor inherit by hereditary right, yet he did rule for the benefit of the many (*ad usum plurium*).[1] Israel, too, was a dominion political and regal, since it was ruled by the king of kings and also by the judges, for the common good.[2] Many kingdoms *in priscis temporibus*, such as Egypt, Ethiopia, and Arabia, had been similar examples. So was Scotland, and so was England. In England the people could not legislate without the authority of the head, who was a king and possessed the realm in hereditary right, and to whom the people were subject; yet even there the dominion was regulated by the dispensation of many. For the king could not change the law nor impose taxation without the consent of his subjects, and the judges were sworn not to give judgments against the laws even if the king commanded them to do so.[3] Finally, even Heaven itself was an example of this dominion, since, indeed, there the consent of all its citizens was not lacking to every judgment of the king.[4]

Though there were fundamental differences in the dominions exercised by the king ruling regally and by the king ruling politically, nevertheless certain affinities between the two were discernible.[5] The king reigning *tantum regaliter* would sometimes in practice find it advisable to rule politically, i.e. with a *regimen plurium consilio ministratum*, as in the case of the Roman king's consulting the senate.[6] Likewise, a king ruling *politice* would for some purposes find it desirable to act royally, and for other purposes would

[1] *N.L.N.*, I, ch. xvi.
[2] *Ibid.*
[3] *De Laud.*, ch. xiii.
[4] *N.L.N.*, I, ch. xxii.
[5] Cf. Peter von Andlau's discussion *An conveniat imperium et quodlibet regnum magis regaliter quam politice gubernari* (Libellus de Cesarea Monarchia, Lib. III, tit. 8)—whether, that is to say, it is better to be ruled by one or by many. The Hebrews before Saul, he says, were ruled not *regaliter*, but *politice* (Lib. II). He decides in favour of monarchy. Cf. J. Hürbin, *Peter von Andlau* (Strasbourg, 1897).
[6] *N.L.N.*, I, ch. xxiii.

find it necessary to do so. In the sphere of judicature, for instance, a residuum of cases would be at his will; criminal cases, questions of punishment, and matters of equity would be at his discretion; and when laws were lacking, he, the lord, would provide a substitute.[1] He would necessarily act royally in the event of military emergency arising from rebellion or invasion.[2] But in the sphere of legislation he should neither make law nor introduce foreign law, without the assent of his chief subjects; in this sphere the political king should never act regally.

Both kings were equally to be likened to God, and the regal king was not to pride himself on being superior to the political king.[3] For the power of each was the same.[4] To be sure, the political king could not change the law without assent; but the regal king's freedom from restraint in this respect was no more than a liberty to sin, and that was not power at all.[5] For all action sprang from two forces: will and power. Since man ever wished for good, the failure to attain it came not from will but from lack of power or impotence. Therefore, the regal king who sinned by forsaking the natural good of consent to laws could not be deemed more powerful than the king who did not so sin; and on the other hand, the good realised by the latter in obtaining consent to laws must be held to derive not only from his will, but also from his power.[6] Nevertheless, though the two kings were equal in *power*, they certainly differed in the *authority* they had over their subjects.[7] The

[1] *N.L.N.*, ch. xxiv. [2] *Ibid.*, ch. xxv.
[3] *Ibid.*, ch. xxii. [4] *Ibid.*, ch. xxvi. [5] *Ibid.*

[6] *Ibid.* The source of the argument is Boethius's *De Consolatione Philosophiæ*, Lib. IV.

[7] *De Laud.*, chs. x and xi. "*Princeps:* 'Unde hoc, Cancellarie, quod rex unus plebem suam regaliter tantum regere valeat, et regi alteri potestas hujusmodi denegatur? Equalis fastigii cum sint reges ambo, cur in potestate sint ipsi dispares nequeo non admirari.' *Cancellarius:* 'Non minoris esse potestatis regem politice imperantem, quam qui ut vult regaliter regit populum suum, in supradicto Opusculo sufficienter est ostensum (*N.L.N.*, I, ch. xxvi); diverse tamen autoritatis eos esse in subditos suos ibidem aut jam nullatenus denegavi, cujus diversitatis causam, ut potero, tibi pandam.'"

explanation of this important difference was to be sought in the different origins of the two dominions.[1]

Both types of monarchy, Fortescue thought, originated under natural law. The law of nature was a divine law arising from the very earliest beginnings of human nature; under it and by it the *dignitas regia* originated and has ever since been ruled.[2] All rights of kings (*jura regum*) were ultimately derived not from the prince's authority, but from the law of nature.[3] This law not only established the royal dignity, but also—since there is less virtue in ruling than in creating—governed it.[4] Both the *ius tantum regale* and the *ius regale et politicum* were subject to natural law.[5]

Nevertheless, these two sets of kingly rights originated differently. The regal dominion was established by force, but the political and regal dominion by consent,[6] and of the two the former was the more ancient. Regal dominion was first set up by unjust men for the sake of ambition, though, indeed, the law of nature none the less worked through them for man's good.[7] Men impelled by power, greedy of dignity and glory, had subjugated their neighbours by force, had compelled their service, and had obliged them to obey commands which obtained the sanctity of laws. These subjugated peoples in time assented to their yoke, thinking themselves fortunate, by submission to one, to enjoy protection from the injury and violence threatened them by numerous powerful men. The dominator eventually usurped to himself the name of king. Such had been Nimrod, first of all, then Belus, Ninus, and many other pagans; and so originated the kingdoms ruled by a *dominium tantum regale*.[8]

But at a later stage of civilisation, large communities

[1] *De Laud.*, ch. xiii; cf. *Govern.*, ch. ii.

[2] *N.L.N.*, I, pp. 63, 187. *Fortescue and the Law of Nature* is the subject of a paper by Professor E. F. Jacob, forthcoming in Bulletin, John Ryland's Library. The present writer hopes to treat elsewhere Fortescue's jurisprudence.

[3] *N.L.N.*, I, ch. v.

[4] *Ibid.*, chs. vii, ix, xxix.

[5] *Ibid.*, ch. xxix.

[6] *Govern.*, ch. ii.

[7] *N.L.N.*, I, ch. xviii.

[8] *De Laud.*, ch. xii.

of their own accord willed to unite and make themselves into a body politic by establishing one ruler as king. At the time of this incorporation and institution, both the king and the people ordained that the kingdom should be ruled by such laws as they all would assent unto.[1] Such a union into a body politic as this could not be made without the elevation of one to rule. For the body politic was similarly constituted as the body natural. Just as the natural body without a head was a mere trunk, so in political life a community could not be incorporated without a head to govern it. Any people, therefore, desiring to erect itself into a kingdom or any other body politic must needs prefer one man into the ruler's place. The creation of the mystical body of the state was like the development of an embryo into a natural body regulated by one head. As in the natural body the beginning of life was in the heart, which transmitted blood to all the members, so in the politic body the beginning was in the intention of the people, which provided for their benefit, and transmitted itself to the head and all the members. As the nerves in the natural body bound both head and members, and were immutable by the head, and could not be denied by it their due sustenance, so in the body politic its law could not be changed by the king, who likewise could not deprive his subjects of their substance against their will. This being the manner in which the regal and political dominion originated, the scope of the royal power in realms thereby governed was obvious. The king was established (*erectus est*) for the protection of his subjects' laws, bodies, and goods, and his power was authorised by the people for this purpose and for no other (*hanc potestatem a populo effluxam ipse habet*).[2]

Authority, or the sanction of power, for the two kings was thus quite different. To the king ruling *tantum regaliter* right was merely might[3]; he had no authority save that conferred by force; his power, Richard Fitzralph would

[1] *Govern.*, ch. ii; *De Laud.*, ch. xiii.
[2] *Ibid.*
[3] *N.L.N.*, ch. xxvii.

have said, was in no better category than the mere brute strength of irrational creatures.[1] But the power of the king ruling *politice*, though it was no less, was derived from the very union of a community into a body politic; it was authorised by the foundation of society and state; its sanction was conferred by the will of the whole people; it was, Fitzralph would have said, the authority that belongs to rational creatures alone.

IV

Three main questions arise from this analysis of Fortescue's doctrines. First, from what sources, if any other than practical experience, did he derive his conception of the dominion regal and political? Secondly, precisely how is his account of the origin of this dominion to be interpreted? Thirdly, how far is his attribution of the mixed dominion to England justified by the facts of the fifteenth century? On our answer to each of these questions depends our estimate of Fortescue's originality as a theorist, his significance in the history of political ideas, and his value as a publicist.

A good deal of difficulty has been made out of the fact that Fortescue's citations of St. Thomas Aquinas or his continuator, Ptolemy of Lucca, and of Egidius Romanus as authorities for his doctrine of the regal and political dominion appear to be unwarranted. It seems that if we turn up his references to those works, or even search through their pages, we do not find any statement about such a dominion.[2] This discrepancy between Fortescue and his authorities caused Lord Carlingford, the editor of the *De Natura* in Lord Clermont's collection, to conclude that

[1] Richard Fitzralph of Armagh, *op. cit.*, Lib. II, ch. iv. After giving a description of man's original lordship in the world, Richard is asked why he used therein the word "authority" rather than the word "power." Richard replies: "Auctoritas seu ius soli racionali convenit creature; potestas sive facultas irracionabilibus competit ex sua institucione primaria; quoniam iuxta supra posita verba de genese, I, v. 29, 30."

[2] Plummer, *op. cit.*, 171 *et seq.*; McIlwain, *op. cit.*, 358 *et seq.*

Fortescue " really derived his doctrines from his own liberal sentiments and the happy experience of his own country " ; this conclusion Mr. Plummer also embraced.[1] A first note of scepticism on this point, however, has been sounded by Professor McIlwain, who puts the pertinent question : Did Fortescue misunderstand his authorities, or have we misunderstood him ?—and who suggests that even though we do not find anything about constitutional monarchy in those works, yet Fortescue may have cited them legitimately, since perhaps he did not mean by dominion regal and political what we mean by constitutional monarchy. For, to say the least, it is improbable that Fortescue cited these authorities again and again unless he supposed they gave some support or other to his doctrines.[2]

Professor McIlwain's query undoubtedly indicates one of the errors that has confused the issue in this matter. Whether or not the dominion regal and political can be thought of as constitutional monarchy must be discussed hereinafter ; but in either case, we ought not to expect to find a highly modernised interpretation of Fortescue's fifteenth-century doctrine written very plainly in the texts of the thirteenth century. Yet this seems to be what Lord Carlingford, Plummer, and others have been surprised in not finding. Moreover, Fortescue's citations themselves have been regarded with excessive literalness, partly owing to preoccupation with the works subsequent to the *De Natura*. We have expected to find in his authorities just the same doctrine as his own, though citation is not necessarily reproduction. We have not considered that he might have found certain statements in his authorities, and have combined some of them together into a whole differing from any of its parts. Yet this seems to be precisely what in fact he did do ; and if the *De Natura* does not explicitly say so, it comes very near to it. In the sixteenth chapter of that work, which gives his earliest and fullest account

[1] Works, ed. Clermont, 360 ; Plummer, *loc. cit.*
[2] McIlwain, *loc. cit.*

of the classification of dominions, Fortescue did not directly attribute the mixed dominion to St. Thomas. On the contrary, he stated that, among various kinds of government, St. Thomas commended *dominium regale* and *dominium politicum*, and that Egidius Romanus did likewise. But, wrote Fortescue, there was a third kind of dominion not inferior to these in dignity and praiseworthiness, which was called political and regal (*sed et tertium esse dominium, non minus his dignitate et laude, quod politicum et regale nominatur*). We not only learnt of this dominion from experience and histories of the ancients, but we also understood it to be taught by the doctrine of St. Thomas (*nedum experientia et veterum historiis edocemur, sed et dicti Sancti Thomæ doctrina edoctum esse cognoscimus*). The important words in this statement are *doctrina edoctum esse*; those scholars who think that Fortescue cited St. Thomas unjustly must, presumably, interpret these words to mean "is to be found written literally in the doctrine." But a strict translation of them is surely "is taught in the doctrine." This comparatively vague assertion does not amount to any very precise citation, and seems a not unfair statement of the possibilities of St. Thomas's or Ptolemy's text. For Fortescue merely took what he supposed to be some of the features of St. Thomas's *dominium politicum* and *dominium regale* and joined them together, just as he specifically combined the two dominions out of Egidius Romanus's treatise. He found in the *De Regimine Principum* of St. Thomas (and Ptolemy) and in that of Egidius a characterisation of *dominium politicum* as a rule according to laws that have been made not by one man alone, but by the many. Presumably he saw that the principle of this rule could be joined to the principles of *dominium regale*, without more loss to the latter than the monarch's monopoly of legislative capacity; and that the resulting combination made a fair description of certain polities of which "*experientia et veterum historiis edocemur.*" He thus improved on his authorities simply by combining certain features of their work for his own

purposes. But, having their authority for the parts of the whole he had made himself, he seems sometimes to have assumed that he had their authority also for the whole. This assumption—and before it is said to be insincere, we ought to know a great deal about mediæval methods of literary citation—appears in several passages. For instance, in the chapter just mentioned he stated that St. Thomas affirmed that the Israelites were ruled *politice et regaliter* under God and the judges, whereas the author of the *De Regimine* merely said they were ruled *politice* at one time and *regaliter* at another. In *The Governance* St. Thomas was represented as having praised dominion political and regal, whereas actually he praised merely the two separate dominions.[1] But *The Governance*, we should remember, was composed when Fortescue was well over the then decidedly advanced age of seventy years, and old men are often none too precise in their citation of authorities for their cherished doctrines.

If we ask why Fortescue made this combination and formulated his mixed dominion, there are clues for an answer. For we note that he placed first among the sources of the theory experience and ancient histories; St. Thomas and the other theorists were placed second. Furthermore, immediately after his allusion to what could be learnt from St. Thomas, he passed on to the kingdom of England. "*In regno namque Angliæ*" is the copulative phrase between these topics. These methods of expressing himself point to the conclusion that he wanted a theory to cover the facts of the English polity as he knew them. He saw that the English polity could not be described as either a political or a regal dominion merely. But a combination

[1] *N.L.N.*, I, ch. xvi; *Govern.*, ch. i. For the various passages in the *De Regimine Principum* of St. Thomas and Ptolemy, and of Egidius, see the references and citations given by Plummer, *loc. cit.* Fortescue's citation of the *Compendium Morale Rogeri de Waltham*, which he says (*Govern.*, ch. i) "more openly treats" of dominion political and regal than St. Thomas's work, shows that he was content to regard even nebulous allusions as good authority, for Roger's treatment of monarchy is of a merely moral character (see Plummer, *op. cit.*, 175).

of the two not only substantially provided the desired theoretical category, but also brought in the authority of the great St. Thomas and his successors. He therefore made the combination. Hence we can say that Fortescue found the theoretical explanation of the English polity as he had experienced it, in his own combination of certain features of the *dominium politicum* and *dominium regale* which were described in two works, both entitled *De Regimine Principum*—of which one was by Egidius Romanus, and the other by St. Thomas and a continuator usually deemed to have been Ptolemy of Lucca.[1]

In answering our second question—Precisely how is Fortescue's account of the origin of the political and regal dominion to be interpreted ?—our chief object of attention must be the thirteenth chapter of the *De Laudibus*. Doubts, indeed, have been raised whether this chapter really does describe the origin of the mixed dominion, but these doubts cannot be upheld. It is true that the text says that the chapter narrates the manner of institution of the political kingdom (*institutionis regni politici formam*), and that later on in the text occur the terms "*dominium regale et politicum*" and "*regnum regale et politicum*"; and it has therefore been suggested that the *regnum politicum* therein described is really the *dominium politicum*, which was not a mixed dominion at all nor equivalent to the *dominium* or *regnum regale et politicum* of England and Scotland mentioned at the end of the chapter. But this purely verbal discrepancy is quite insufficient to support this theory. For it is undeniable that the chapter relates to the establishment not only of a dominion, but also of a kingdom; so that *regnum*

[1] I entirely agree with A. P. D'Entrèves when he remarks on the absence of any visible influence on Fortescue's writings of his legal predecessors, Glanville and Bracton (*San Tommaso d'Aquino e la Costituzione Inglese nell' Opera di Sir John Fortescue*, 264, in Atti della Reale Accademia delle Scienze di Torino, LXII, 1927). I am indebted to Mr. H. O. Evennett, Fellow of Trinity College, Cambridge, for calling my attention to and loaning me this suggestive essay. Sig. D'Entrèves does not, I think, add substantially to the conclusions arrived at by Plummer in regard to the relation of Fortescue to St. Thomas's texts.

politicum is a literal term for the theme of the chapter. There cannot be a kingdom without a king; every *regnum* is necessarily *regale*, whether it be also *politicum* or not. The word *regale* is always redundant in the phrase "*regnum regale et politicum*," though it is not redundant in the phrase "*dominium regale et politicum*"; and therefore no inference can be drawn from its omission from the phrase in question. Moreover, either the statements towards the end of the chapter which commence "*Sic namque regnum Angliæ*" and "*Sic Scotia*" are meaningless verbiage, or they mean that the dominion regal and political of England and the kingdom regal and political of Scotland originated as the political kingdom is said to have done in the previous part of the chapter. All three phrases must therefore mean the same kind of dominion, and the chapter must relate to the origin of the mixed dominion, regal and political.

It is the interpretation of this chapter that has been responsible for most of the modern constitutionalism that has been attributed to Fortescue. For this description of the origin of the *regnum politicum* has been understood as an account of the origin of constitutional monarchy, and on the strength of it he has been hailed as the precursor of Sidney and of Locke.[1] But it is easy to read back into early texts the ideas of a later date, and Fortescue has been a ready prey for constitutional controversialists and liberal sentimentalists. Actually, no theory of constitutional monarchy [2] is propounded or implied in Fortescue's account of

[1] Lord Carlingford, Works, 361. Lord Carlingford seems to suggest that Hallam also thought of Fortescue in this light, but I do not find the suggestion substantiated.

[2] It is undoubtedly essential to maintain a clear distinction between the terms "limited monarchy" and "constitutional monarchy." Plummer, and indeed McIlwain also, use these terms as though they were synonymous, and this confusion is most misleading. A limited monarch is one whose power is absolute except in certain spheres delimited by law and custom. A constitutional monarch is limited but not absolute, for his power is controlled by some other co-existent power whose authority he cannot lawfully override. An absolute monarch is not necessarily also despotic, for, though he may be restrained only by custom or by moral and material forces, yet his power need not be arbitrary, as a despot's is.

the origin of the *regnum politicum*, or anywhere else in his writings; and if he was the precursor of anyone, it was of Hobbes rather than of Locke. For close attention to Fortescue's own words seems to show indubitably that he completely confused and treated as one phenomenon the origin of political society and the formation of the monarchical state. In his view, the people, when joining together in political society, necessarily (*semper oportet*) established at the same time one ruler over them, and this ruler was king. He did not conceive, as Locke did, that the people might agree to unite first, and later, by some further compact, appoint a ruler to rule according to an agreed code of laws. His social contract was also itself the political one. The body politic and the monarchy were created at one and the same time, and by the same act of union. Fortescue's *regnum politicum* was established in exactly the same manner as Hobbes's Leviathan.

There was no room, in Fortescue's view of this establishment, for a choice among various forms of government. Once the initial act of incorporation had been performed, all else followed with the same immutability as an embryo developed into a physical organism with one head. The act of incorporation was engendered by the intention of the people to provide for their political welfare, and this provision necessarily involved the maintenance of law; or rather, their political welfare *was* the maintenance of law by all members. There was thus no question of agreements between people and ruler to do or not to do this or that; there was no question of surrendering, retaining, or conferring rights. The act of incorporation and the establishment of the monarch were part and parcel of the maintenance of law; there could be none of these without the others, any more than in a physical organism the head, heart, and nerves could live without one another. Nor did it follow that law existed before this incorporation, any more than the nerves existed before the development of the embryo into the physical organism. Without the incorporation of

the people and the establishment of the ruler, law could not be maintained; and law unmaintained is not law. But the purpose of law was to protect the people in their lives and goods, and therefore the king, when established, had no power to change the law or to seize the property of the people. King and law were bound up together; no king, no law—no law, no king. Hence if the law were to be altered, or the goods of the people confiscated by taxation, their assent had to be obtained. For the only power the king had was from them, and he had it for the maintenance of law. But he did have this power, and he had it absolutely. Once given, it could not be taken away without the dissolution of the body politic; there was no control over it, no system of checks or balances upon it; for the purposes of his establishment the king was an absolute monarch. He was limited only by the necessity of procuring the assent of the people for an alteration in their legal and proprietary *status*. He was not, in short, a constitutional monarch; for he was uncontrolled, and there were no means of restraining him or of disposing of him. He was an absolute autocrat in his own proper sphere.[1] Yet he was not above the law, for it was law that made him ruler, just as the head of the physical organism was not above the biological law that made it. The maintenance of the laws and property of the people was his very *raison d'être*, and the exercise of his power was thus limited by the need for the assent of the people, from whom his power originally came.[2]

Fortescue's theory of regal and political dominion is thus in no sense a theory of constitutional monarchy. It is essentially a theory in line with the typical mediæval theory

[1] Jovian Hicks, in his *Passive Obedience Defended* (1683), noted this point.

[2] Waterhous, in his *Commentaries on the De Laudibus* (1663), observed (p. 200) that the phrase "*potestatem a populo effluxam ipse habet*" is not to be understood as applying to the government of England, "which is an Imperial Crown, and is not alloyed by the politique admissions into it, but that that, as to the integrals and essentials of regality, retains its independency." Such phrases he held to relate to the "first ages of the world."

of the kingship that was not tyranny, of the king ruling according to law. It is impossible to find in it any important innovation in the theory of kingship, except the vivid explanation of its origin. This explanation was obviously suggested, with perhaps some help from Vincent of Beauvais,[1] by the two passages which Fortescue quoted from St. Augustine and Aristotle respectively. St. Augustine said that a people is a body of men associated together by a consent of law and a community of interest; Aristotle affirmed that when a multitude is reduced to a unity, one will rule and the others be ruled. Fortescue again exercised his talents for combining theories, and produced his account of the origin of limited monarchy. If his premises be granted, his theory is not an unreasonable one. But no more striking evidence of his conservatism can be mentioned than the very restricted conclusion he drew from his theory. If he had been a constitutionalist it would have been easy for him to deduce a whole system of checked, balanced, responsible, and controlled monarchy from a few modifications of his account of origins. But he did not do so, for to him the king was absolute, even though limited. It never occurred to him that the king was accountable to any less remote authority than that of the divine wrath.[2] The people had established the monarch, but this act exhausted their initiative. They had established, for their own good, a master who was to be obeyed, unless, indeed, he altered the law or seized their goods without their assent. But even if he did these things without their assent, they had no remedy against him unless they could overpower him. The king's council was not a

[1] Plummer suggests (*op. cit.*, 84) that the account of the origin of the two forms of government was derived from Vincent of Beauvais, *De Morali Principis Institutione*. But he hardly brings any evidence to the support of this suggestion (*ibid.*, notes to ch. ii). He merely quotes a passage from that work bearing on Nimrod and Ninus, which is, of course, quite irrelevant to the theory of origins; and, in any case, Fortescue cites St. Augustine for his authority on those two monarchs. The present writer has not examined the *De Morali*, a copy of which, known to have belonged to Fortescue, is now in the Bodleian (Rawl., c. 398).

[2] *N.L.N.*, I, ch. xxvii.

check upon, but an instrument of, the royal power, and Fortescue thought it should be made more efficient.[1]

The third and last of our questions—How far was Fortescue's attribution of the mixed dominion to England justified ?—involves a preliminary determination of precisely what the attribution implied. This determination is easy, for Fortescue's specific references to the polity of England were few, definite, and unambiguous. The kingdom of England was a dominion regal and political, and the king of England's authority was that of a king ruling politically. For the kingdom had been founded by the community that had come long ago from Italy and Greece with Brutus; this community had willed to unite and form a body politic called a realm, and had chosen Brutus to be its head and king. They and he, at the time of this incorporation and institution, had ordained the realm to be ruled and " justified " by such laws as they all would assent to. The " law " of England was therefore political because it was made by the counsel of many, and it was also regal because it was administered by a king.[2] Hence it came about that in Fortescue's time the king and his ministers could not, or at least did not, change the laws or impose taxes on his subjects, without their assent. This assent he particularised in one place as that of the Three Estates, and in another as being expressed in parliament. Furthermore, in England, he said, the judges were sworn to render judgment according to the laws, even if the prince commanded them to the contrary.[3]

[1] *Govern.*, chs. xv, xvi.

[2] *De Laud.*, ch. xiii ; *Govern.*, ch. ii. Fortescue seems to have had a certain amount of authority for his version of Brutus's elevation, at any rate in so far as the legend tells of his being chosen as leader of the Trojans. Thus in the *Nova Chronica* of Rede, a copy of which is known to have been in Fortescue's possession, it is said (p. 185) that Brutus was elected leader before the migration from Greece. Geoffrey of Monmouth's own version is to the effect that the Trojans besought Brutus to be their " *dux*," and to free them from their servitude to the Greeks. He used the same words as Fortescue did to describe this elevation, i.e. *erectum est* (*Historia Regum Brittanie*, ed. A. Griscom, 1929, p. 225).

[3] The texts for these statements are to be found in *N.L.N.*, I, ch. xvi ; *De Laud.*, chs. ix, xviii, xxxvi.

Apart from the statement of the historical origins—and even that is not without foundation in the then received Brutus legend—it ought not to be necessary to argue that Fortescue's very brief and matter-of-fact description of the monarchy of his day is a just one. But it has been said in a well-known work on the evolution of parliament that " the constitutional ideal which Sir John Fortescue depicted at the close of the middle ages had little more relevance to the practice of his day than More's Utopia had to the government of Cardinal Wolsey." [1] These words are picturesque, and create a vivid impression of Fortescue's work; but, unfortunately, they give a totally wrong impression of it. For if Fortescue depicted an ideal at all, it was not constitutional; and if he depicted anything constitutional, it was not ideal. It is true that he depicted in one passage a more or less Utopian ideal for England—a state in which " this (England) shal be a collage, in whiche shul syng and pray for evermore al the men of Ingland spirituel and temporel " [2]—but this ideal was based merely upon certain administrative reforms tending to strengthen the executive, and had nothing whatever to do with constitutional matters. He contemplated no sort of constitutional reforms or ideals. His remarks on what we call the constitution are in no sense Utopian—they simply reflect the facts; so far from being irrelevant to the practice of his day, they state it. For there can be no serious doubt that the normal practice of the king in the fifteenth century was neither to alter the law of the land nor to impose taxes without the assent of parliament. Even the theory that his practice might be different was mentioned only to be refuted. The rebels of 1450, for instance, alleged that there were some people who said the king was above law and might break it as he

[1] A. F. Pollard, *The Evolution of Parliament* (1926), p. 133.

[2] *Govern.*, ch. xix. These proposals are in no sense Utopian. As the German translator of *The Governance* says: " Was Fortescue in der 'Regierung Englands' schreibt, ist der Niederschlag der Erfahrungen, die er unter den Lancasters gemacht " (*Über die Regierung Englands*, ubers. u. hsgb. v. Dr. Walter Parow, 1897, p. 9).

wished, and that he should live on the commons, whose bodies and goods were his. But the contrary, they insisted, was the truth; otherwise the king would not swear at his coronation to keep the laws, nor would he ever need to summon parliament to ask the commons for their money.[1] Moreover, King Henry IV himself informed the Pope that statutes could not be revoked or changed without the assent of the estates[2]; and the lords of parliament affirmed in the minority of Henry VI that the law of the land could not have been altered by the late king without the same assent.[3] The king of England, Philip de Commynes noticed, took a long time to raise money, for he could not do it without the assent of parliament.[4]

Practice and theory in these constitutional matters thus coincided. Fortescue, in stating them, was but voicing the common opinion and describing the ordinary fact of his time. His originality lay not in any exceptional constitutional enlightenment nor in liberal sentiments, but in his attempt to array bare constitutional facts in the imposing raiment of political theory.

[1] Articles of Kent, in *Magdalen College, Oxford, MSS.*, printed in Hist. MSS. Comm., 8th Report, App. I, pp. 266–7: "(ii) Item, they say that oure Sovereigne lorde is above his lawe and that the lawe is made to his plesure, and that he may breke hit as ofte as hym lyst withouten any discucsione; the contraire is trew and elles he schuld not have bene swerane in his Coronacione to kepe hit, the weche we conceyve far the higheste poynt of tresone that any subject may do azenst his prynse for to make hym reygne in perjurie. (iii) Item, they seye the Kynge schuld lyve upon his comyns, and that her bodyes and goodes ern his; the contraire is trew, ffor than nedid hym nevir to set parlements and to aske good of hem."

[2] See letter to Alexander V, printed by E. F. Jacob in *Bulletin, John Ryland's Library*, XV, p. 379.

[3] *Rot. Parl.*, IV, p. 326.

[4] *Mémoires*, I, p. 266.

THE LAW MERCHANT IN ENGLAND IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES

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The study of Law Merchant in England in the seventeenth and eighteenth centuries which I venture to read to the Society to-day arose out of some work upon the business of eighteenth-century merchants. I approach the complex problem of the Law Merchant therefore not from the point of view of the law courts but as the merchant himself approached it, by way of the problems of commercial intercourse.

The eighteenth century can be considered, from the point of view of Economic History, either as the zenith of an old system of capitalism, where the merchant was the "spring and centre of traffic," or as the forerunner of a new age when the merchant prince saw his place usurped by the industrial magnate. It is when one considers the eighteenth century not in the latter, but in the former aspect that the problem of the Law Merchant arises. The merchant is predominant in the economic structure, has forced his way into politics, and is making his mark on the law. The same period that is marked so deeply in politics and economics with the stamp of the great mercantile exporting interests sees mercantile customs capturing the strongholds of the common law by the twofold assault of custom and theory. The outlines of the process are well known. In the eighteenth century English law definitely lost the character it had inherited from the Middle Ages of a predominantly land law by the addition of a great body of commercial law. Lord

Mansfield, the most famous lawyer of the century, deliberately set out to achieve this. Sometimes he is spoken of as if he had, single-handed, created English commercial law and that his detachment from the common law traditions held by men like his successors Kenyon and Eldon had made this possible. But great as was the part he played, he could never have achieved his end had there not stood behind him a strong social need, a willingness in the courts to follow his lead, and a body of commercial custom which was the product of long development.

The intention of this paper is to show what precisely was this need, and to suggest whence the merchants' knowledge of the mercantile custom of their time was drawn. The material used here consists chiefly of the contemporary publications which sought either to guide lawyers in their dealings with trade, or, more often, to guide merchants in their dealings with the law.

The Law Merchant of the seventeenth and eighteenth centuries, the body of theory and custom that forced its way into the law of the land, has an interest wider than the concerns of trade, for in its development came together the tendencies making for the growth of the theory of the Law of Nations on the one hand, and the evolution of fuller national laws on the other. Contemporaries were anxious to stress its mediæval heredity, and to speak of it as a "Lex Mercatoria Rediviva," and writers were wont from the seventeenth century onwards to raise on high the "ancient name of Lex Mercatoria." But just as the customs they administered were more complex than those of their mediæval predecessors, so was their theoretical exposition of the nature of their Law Merchant far more advanced. Just as the seventeenth century meant something far more definite and concrete by the Law of Nations than the fifteenth meant by the Law of Nature ; so when a fifteenth-century Chancellor said in the Star Chamber that a merchant stranger could sue "solonques le ley de Nature en le Chancery, viz. ley marchant que est ley universal par tout le

monde" [1] he meant something far less definite than did Malynes when he repeated the commonplaces of 1622 and maintained that the Law Merchant was a known body of customs which "hath alwaies been found *semper eadem*, that is constant and permanent . . . concurring with the law of nations in all countries." [2] The completed theory of the Law Merchant was, in fact, typical less of mediæval thought than that of the sixteenth and seventeenth centuries, when civilians were concerned with the nature of the Law of Nations, and were laying the foundations of International Law.

Historians have studied the Law Merchant of the Middle Ages from two points of view; in the first place they have collected such material as has survived and examined it to discover what business was carried out in the merchant courts; in the second place they have tried to find out what contemporaries actually thought it to be, and what were its relations with the common law of the land.[3] In the second attempt they have been perhaps less successful than in the former, partly because they appear to have paid too little attention to chronology and the changing needs of merchants. This paper is an attempt to trace the chronological development. It is useless to quote, as so many have done, seventeenth-century writers such as Davies [4] or Wiseman,[5] Malynes [6] or Zouch,[7] or even Coke himself, to prove that the merchant courts of the Middle Ages had anything like

[1] Year Book. 13 Ed. IV, p. 9. Quoted A. T. Carter, *Early History of the Law Merchant in England. Law Quarterly*, XVII, pp. 232 *seq.*

[2] G. Malynes, *Consuetudo vel Lex Mercatoria*, 1622, Epistle Dedicatorie, p. 2.

[3] For instance, C. Gross and H. Hall, *Select Cases on the Law Merchant*, 3 vols. (Selden Society). A. H. Thomas, *Calendar of Select Pleas and Memoranda of the City of London*, especially 1381–1412, to which there is a valuable introduction.

[4] Sir John Davies, *The Question Concerning Impositions.* Published in 1656 but written much earlier and dedicated to James I.

[5] Sir Robert Wiseman, *The Law of Laws*, London, 1657.

[6] *Op. cit.*

[7] R. Zouch, *Jurisdiction of the Admiralty of England Asserted*, London, 1663.

the idea of a " recognised body of private international law " which had been compiled for seventeenth-century Europe, and which was coming into general knowledge with the new strength of the learning of the Law of Nations behind it. There is indeed something to be said for the heretics who maintain that the merchant customs in the Middle Ages were too indefinite to be called by the name of Law Merchant at all, and who complain with Ewart that " Frequent use of the word has almost produced the impression that, as there was a Civil Law and a Canon Law, so also there was somewhere a " Law Merchant " of very peculiar authority and sanctity."[1] No one could deny, of course, that there were merchant courts, and that merchant customs were administered in them. Some, though not all, of these customs were more than local in their application, and it was held that all merchants recognised, if not the precedent behind them, at least the commercial conscience within them. Particularly in the sea laws of the ports, but also in many concerns of trade as well as in the law of partnership, contract and sale (much of which early won recognition in the common law), these universal customs were strong and prominent. Yet mediæval courts merchant were not established with a jurisdiction independent of the Courts of Common Law. Their position is not comparable with that of the courts administering the Canon Law. On the contrary, as the thirteenth-century tract *Lex Mercatoria* says, it was held that " Lex communis . . . est mater legis mercatorie et . . . suam filiam ex certis privilegiis et in certis locis dotavit."[2] To the mediæval lawyer the jurisdiction of the merchant courts was little more than a limited devolution of authority made in the interest of speed and simplicity. The common law courts did not hesitate to try cases involving merchants if occasion arose. It was generally recognised, as in the Ordinances of the Staple, that the parties had their choice of pleading in the merchant or common law courts,

[1] Quoted in *Anglo-American Legal Essays*, iii, 34.
[2] *Little Red Book of Bristol*, ed. F. B. Bickley, 1900, i, 68.

though the King's Council and the Chancery proved the most convenient non-mercantile mediæval courts to deal with difficult cases.

The Law Merchant, in fact, had none of the independent existence that Canon Law had in the Ecclesiastical Courts; there was no border war between the Common Law and the Merchant Courts as there was between it and the Courts Christian. Moreover, if it were not comparable with the Canon Law, no more was it with the Civil Law. It was long before merchant customs had more than a customary and mainly oral existence. Many of its rules were no doubt purely local—even in the eighteenth century Lord Mansfield had to make this distinction very sharply. The various sea laws, reduced to writing and each commanding a certain territorial sphere, such as the Laws of Oleron and later Wisby and the Hanse cities in the north and the Laws of Amalfi and the Consulate of the Sea in the Mediterranean, were the earliest customs of more than local importance to take a fixed form.[1]

It was not till the sixteenth and seventeenth centuries that the great law books of Straccha [2] and Scaccia [3] did for the customs of the merchants what the civilians and canonists had done long before in standardising practice and stating theory, for the great extra-territorial laws. And it is not till this period that the great international claims begin to be systematically advanced for Law Merchant as a body of customs which can be examined and worked upon. The full flowering of the international theory of the Law Merchant is not in short the product of the Middle Ages, but of the great age of the civil law, the sixteenth and seventeenth centuries, and in particular of the great concept developed by that age, the Law of Nations.

In the Middle Ages for certain purposes the common lawyers recognised a summary jurisdiction resting with

[1] For their texts, v. J. M. Pardessus. *Collection de Lois Maritimes*, 1828–45.

[2] Benvenuto Straccha, *Tractatus de Mercatura, seu Mercatore*, 1550.

[3] Sigismundo Scaccia, *Tractatus de Commerciis et Cambio*, 1618.

certain local trading bodies, which might even be created by statute or ordinance as in the case of the Staple under Edward III. Thereby they recognised that some customs whereby they might adjudicate existed and that some of these customs were universal, but such recognition allows little room for the claim that merchant courts were held to be acting according to a well-known and universal body of law, with mysteries with which the common law of the land could not cope. Had the English merchant courts flourished and grown, as did those of some foreign countries, they would no doubt have benefited by the sixteenth- and seventeenth-century compilations of their customs and exaltation of their jurisdiction, and the problem of their relations with the common law courts would have arisen. As they were already in decay, the future of the English courts merchant lay less with the so-called Merchant Law, which was to force its way into the common law of the future, than with the slow decay of the humble pie-powder courts of the fairs.

This lack of development in the merchant courts of England is curious, and is very different from what is found among some other trading and maritime peoples, where courts administering merchant customs were obtaining an independent place among the national legal institutions just at the time when the English courts which might have had a similar development were falling into decay. It is customary to attribute all such differences in English and continental development to the strength of the Common Law, but important as the Civil Law was in the development of commercial customs, this would not seem here to be a full explanation. There were two aspects of merchant customs which were growing vigorously at the time; the sea laws (especially those dealing with new problems of importance such as marine insurance) and the law or custom of exchange. There were correspondingly two main reasons why the courts administering Law Merchant in England became insignificant just as they were increasing in strength

elsewhere. The first is the growth of the Admiralty Court, which, rising to its greatest strength in the sixteenth century, had begun even earlier to take within the orbit of its own jurisdiction those forces which owed their strength to the fact that they were more than local.[1] With its incorporation of the mediæval sea laws of Oleron, its control of all matters in any way concerning shipping, its use (increasing as the Prerogative Courts gave it the support of their example) of the processes of the Civil Law, the Admiralty, far more than any court merchant of England at any time, had a share by the seventeenth century in the "private international law of Europe."[2] Thus English constitutional development prevented the early strong union of merchant and maritime law, which was essential even to the conception, let alone the legal expression of a commercial custom transcending purely national bounds, and which lay behind the compilations and expositions in some of the continental nations. There, as Malynes said:

> Even as the roundnesse of the Globe of the World is composed of the Earth and Waters. So is the Bodie of Lex Mercatoria made and framed of the Merchants' Customes and the Sea-Lawes, which are involved together as the Seas and Earth.[3]

As a consequence, at the time when the commercial jurisdiction was taking shape abroad, the characteristic product of English conditions was something different. It was the elaboration of the practice, and, when the Admiralty power was first seriously challenged, of a theory of the Sea Law as opposed to the Land Law, which bore on it many of the features of the Law Merchant as it was being formulated elsewhere.[4] It was only as the control of the Admiralty was crumbling away, undermined by the assaults of the

[1] See R. G. Marsden, *Select Pleas of the Admiralty*, Selden Society, 2 vols. Sir T. Twiss, *The Black Book of the Admiralty*, Rolls Series.

[2] F. Maitland, *Select Pleas in the Manorial Courts*, Selden Soc., i. 133.

[3] G. Malynes, *op. cit.*, "The Epistle to the Reader."

[4] See, for instance, J. Exton, *The Maritime Dicaeologie; or Sea-Jurisdiction of England, 1664*, p. 135. Justice is compared to a bird with two wings, the Sea and the Land Laws. Corresponding with "that happy

common law courts and by the growing complexity of the merchant affairs which it was trying to handle, that in England the idea of a unified body of merchant custom could be formulated comparable to that given legal recognition in some countries abroad. It is significant that the only attempt to introduce continental merchant tribunals into England, the abortive institution of the Commissioners of Assurance in 1601, was the result of the incapacity of the Admiralty jurisdiction to deal adequately with the new problems of marine insurance.

The other cause of the failure of the English Law Merchant to develop, was that English economic conditions separated sharply the trader and merchant proper, as the distinction was recognised by the end of the sixteenth century. The merchant was to the English essentially the exporter, with his organised markets abroad. For this reason an English centre of exchange was slow to develop, and when it did was only a small offshoot of the great exchange markets abroad. Seventy years after the founding of the Royal Exchange, Lewes Roberts in his *Merchants' Mappe of Commerce* points out that

> The Exchanges practised in England, and principally in London, are confined within a narrow scantling, being but as a Rivolet issuing out of the great streame of those Exchanges that are used beyond the Seas.[1]

Though there must always have been cases, some of them very complicated, decided in London, the sixteenth-century evidence seems to show that it was in the foreign staples or fairs, or in the courts of the exporting companies abroad that the merchant developed the new customs with regard

Government of all Land affairs by its municipal laws," the nation had " Navies, Trade and Commerce under that exact Government which hath ordered and guided all Maritime businesses and Sea affairs, by the Civil and Maritime Laws and Customes (corresponding, agreeing and according with the Laws of Forreign Nations, being suitable to the nature and negotiations of the people that are subject to them) . . ." (Epistle Dedicatory).

[1] First published in 1638, p. 256.

to credit instruments and negotiable securities which the greater scope of his trade made necessary, and certainly these new developments scarcely touched the moribund merchant courts in England. Exchange on the one hand, the sea laws and in particular marine insurance on the other, were the two aspects of the merchant customs which were at that time most international in their scope. Since the old usages of contract, partnership and sale had long since become imbedded in the precedents of national law, it was the development of these new usages which was making out of the customs of merchants a body of written international customs, and it was an adequate expression of these newer customs in law which England almost entirely lacked.

The seventeenth century saw, however, a change coming over the position in England. It was an inevitable change ; on the one hand the Admiralty control, and on the other the dominance of the regulated companies was breaking down, and English trade was always expanding. The change itself was twofold ; it consisted firstly, in the growingly powerful and systematic expression of merchant customs ; secondly, in the beginning of the reception of those customs into the Common Law. The two movements together make up the change of the century and prepare the way for the full reception of the Law Merchant in the next century, the climax of the commercial period.

The first change was in the realm of theory. For Englishmen in the seventeenth and sixteenth centuries the Law Merchant was a theory, and a compilation of customs, which were both of foreign growth, though there had crept into them certain specifically English traditions. From the beginning of the century it is noticeable that English legal theorists, and civilians in particular, begin to lay a new stress on a theoretical systematisation of merchant customs, to give increasing attention to the Merchant Law or Custom, as something known and existent outside the Common Law. Statements of this kind can, of course, be found much

earlier. The change lies in their increasing frequency, and in the much clearer indications writers can give of what this custom is and its association with the Law of Nations. The seventeenth century was an age not only of many practical problems but of legal learning. It was fitting work for the seventeenth-century jurists and scholars to give completeness to the theory of a Law Merchant based on the *Jus Gentium*, and to expound in systematic manner that inchoate mass of merchant customs which they found at home or had adopted abroad, and which were now beginning to play an important part in national life.

This systematisation of both the theory and technique of merchant intercourse had to be brought about by adaptation from foreign sources, for adequate English background there was none. Here the learning of the Admiralty Courts, even at the time when they were losing their power over trade, played a part which cannot be overestimated. In the first place, the Admiralty Courts made one of the most important links between English scholarship, the Civil Law and the growing theory of Law of Nations, and in the idea of Law of Nations lay the basis of a theoretical exposition of the Law Merchant. In the second place, in its struggles against the Common Law and its formulation of the Sea Law the Admiralty did much to introduce to England the comparative study of the sea laws of Europe and their history, and this also was of the greatest importance in the systematic exposition of merchant custom.

The growth of the theory of *Jus Gentium*, and from it of the Law of Nations, was firstly an attempt to separate from the Law of Nature such customs and laws as existed between nations for their mutual relations, public and private. It was, also, an attempt to develop these laws and customs according to the direction of Natural Law, shown in man's reason and sense of equity. A stimulus was therefore given at the same time to an *a priori* and an empirical development ; to the old equitable conception of the Law of Nature and reason which were to flourish greatly

in the age of enlightenment ahead; and also to a careful concrete study of those international customs already in existence. For that reason the jurisconsults of the Continent, in particular the Dutch, fell with avidity not only on the question of the dominion of the seas, but on all those of commerce of which they had experience. Though many of the theorists dealt, like Grotius, almost exclusively with the public law of nations, concentrating on questions of war and peace, and dominion of the seas, others such as Loccenius [1] paid a good deal of attention to trade and private law in general. The best English statement of the relations between the public and private law of nations at the time is to be found in Sir R. Wiseman's *Law of Laws*, published in 1657. Their theory grew, of course, directly out of the Civil Law, but English theory had missed the whole development of the later civilians and canonists of Italy, France and Spain which lay behind the theoretical structures of the Low Country jurists. Selden and the other English scholars worked backwards to these writers, whence the thought which now affected them had worked forward. The form in which English commercial development was rationalised for legal purposes was fixed by continental moulds of thought.

It is to the influence of the Law of Nations that we must turn, therefore, for the impetus towards the seventeenth-century theory of Law Merchant in England. In spite of the earlier work of the Scottish civilian, William Welwod, which had a European reputation, the first strong direct influence of the Law of Nations on the development of English thought came through Selden's controversy with Grotius on the dominion of the seas. Since the object of this controversy was the public relations of states, its bearing on the subject of Law Merchant was not very obvious. It was the succeeding controversies carried on by the Admiralty against the Common Law Courts which began to bring more to the fore the specific questions of trade. For the Admiralty

[1] J. Loccenius, *De Jure Maritimo et Navali*, Stockholm, 1650.

Court, among other things, was fighting for the retention of its control over trade. The seventeenth century, which saw the fall of the strong centralised administration built up in the preceding century, saw also the successful attack of the Common Law Courts on all rival jurisdictions. While the brunt of the attack fell in the earlier part of the century on the Prerogative Courts which were so closely bound up with the Royal Administration, the older rivals of the Common Law, the Ecclesiastical Courts and the Admiralty had their own and longer battles to fight. Throughout the century all the knowledge of the Admiralty lawyers was massed to resist the inroads of the common lawyers into their jurisdiction.

In the struggles of the Sea Law against the Land Law, questions of trade were only a part. But the learning of the Admiralty civilians was quickly adapted to the needs of trade by writers of a new type. Commerce had become a subject of enquiry for men of letters. Some were pamphleteers, now the recognised classics of mercantilism, who rationalised and systematised the diverse economic experience of the preceding century, infusing into it the while the revolutionary element of individualism which replaced the old ideal of the "ordered trade" by the new ideal of enterprise. Others more important to us here were the writers of purely descriptive works, merchants' handbooks, guides to the customs and conditions of trade. In these we find writers who use the legal learning around them and turn it to their own purpose. This they do in various ways —Malynes in his *Lex Mercatoria* ingeniously but casually, Roberts in his *Merchants Mappe of Commerce* with the diffidence of a very practical man, and Charles Molloy [1] in his *De Jure Maritimo et Navali* with the legal scholarship for which the Admiralty writers such as Godolphin and Zouch [2] had set the example.

[1] C. Molloy, *De Jure Maritimo et Navali*, 1676. The name would appear to be taken from the title of Loccenius' work.

[2] J. Godolphin, *A View of the Admiral Jurisdiction*, 1661. R. Zouch, *The Jurisdiction of the Admiralty of England Asserted*, 1663.

If familiarity with the continental method of treating the Law Merchant as part of the Law of Nations had a considerable importance in moulding the growing self-consciousness of English commercial customs, continental studies of the content of merchant customs played a still more important part in developing them. Here, too, the Admiralty learning is to be seen. William Welwod, the Scottish civilian, in his *Abridgement of all Sea-Lawes*,[1] a work which but inadequately fulfils its name, was the first English writer to lay stress on the comparative treatment of the sea laws of Europe. His study, though important in its time, was slight. Selden made a more careful study of the English material, but it was not till the Admiralty struggles of the 'sixties that wider knowledge was popularised. By that time, if only through Loccenius [2] and the commentary of Vinnius on Peckius,[3] the importance of the comparison of the Laws of Oleron and Wisby, the Hanse Laws and the Mediterranean Code, the Consulate of the Sea, was fully understood, and the texts were for the most part available for scholars. Such comparative treatment was of the highest value in expanding the range and applicability of English merchant custom; of how great value can be seen by examining Molloy's *De Jure Maritimo et Navali*. Molloy, with his learning, makes use in this treatise of all these authorities for purposes of comparison, and also of the laws on insurance holding in Antwerp. His work is indeed of an importance which has seldom been recognised, for it is the practical starting-point for the work of the writers on Law Merchant in the following century, and still further for the first time in England, it definitely lays down

[1] 1st ed., 1613. It was inspired by the intention of Simon Shardius, prevented by his death to produce such a work (Welwod, *op. cit.*, p. 6). Shardius in his *De Varia Temporum in Iure Civili observatione . . . libellus Item Leges Rhodiorum Navales . . .* 1561, had already made the first edition of the Rhodian Laws. (Cf. W. Ashburner, *The Rhodian Sea Law*, Oxford, 1909, p. xli.)

[2] Loccenius, *op. cit.*

[3] A. Vinnius, *V. Cl. Petri Peckii In Titt. Dig. et Cod. Ad Rem Nauticam Pertinentes Commentarii*, 1647.

a body of law and custom in use at home or apposite abroad which covers not only Sea-Law but also Exchange. In Molloy the learning of the Sea Law is definitely turned to the rising claims of trade, and for the first time something in the nature of a body of merchant custom was laid down in England by an able lawyer.

The theoretical systematisation of merchant customs and their reduction to writing was in seventeenth-century England most rapid in the sphere of sea law, where the greatest concrete problem was the growing importance of marine insurance and the disputes arising from it. It was definitely a work of comparative learning. The elaboration of the established practice of Law Merchant was even greater in Exchange. The theory of exchange lay already in the past, in the work of the canonists who since the fourteenth century had striven to confine within the fabric of the usury laws the growing forces of exchange. Their importance was already held, in England at any rate, to be merely academic. The English thought these writers were men " by the reading whereof Merchants are like rather to metamorphise their profession and become lawyers, than truely to attaine to the particuler knowledge of the . . . Law-merchant." [1] It was the concrete not the theoretical aspects of the work of Straccha, Scaccia and Molina [2] which gained an influence in England. When England herself first produced a writer on the exchanges, he joined the ranks of those who sought to expound, not a theory of exchange and its lawfulness, but the nature of the rapidly developing exchange system. John Marius wrote his *Advice concerning Bills of Exchange* in 1651 ; in 1682 it was followed by John Scarlett's *Stile of Exchanges*. Nothing could be more ruthlessly practical than these works. Marius's work contains no mention of the equity, or reason of a Law Merchant national or international. Instead it is a complete exposition of the

[1] G. Malynes, *op. cit.*, p. 5.

[2] B. Straccha, *op. cit.* S. Scaccia, *op. cit.* L. Molina, *De Justitiae, Jure*, 1593.

Law Merchant in action. Without the intervention of law he shows the business of exchange dominated by rules national and international which have, through custom alone, the binding force of law.

The existence of such a body of customs was the very foundation on which the theory of Law Merchant was built. English writers had but to bring together the theory they had elaborated around the sea laws and the practice which they had recorded in Exchange to make up a full statement of the Law Merchant. It was Malynes who first dealt with these two aspects together; Molloy who first handled them clearly and practically, and finally Alexander Justice in the introduction to his *General Treatise of Money and Exchanges*, 1707,[1] raised to a predominant part within the Law Merchant, the Law or Custom of Exchange.

By these means there had, by the end of the century, grown up in England a fairly consistent and complete exposition of merchant customs as they then existed; an exposition which saw in them an expression of the Law of Nature and Nations, and which by the use of analogy and rationalisation had brought together a coherent statement of their practice.

What then, to turn to the second change of the seventeenth century, was the place of these customs in law? The establishment of a theory of the nature of the Law Merchant and the reduction to writing of many of its customary workings were the outcome of real developments and serious needs. However excellent the customs, and however full the knowledge of them might be, they were useless unless they could be enforced. That is why the full theoretical formulation of the international Law Merchant so closely preceded or even coincided with its reception in one form or another into the national legal systems of Europe.

As commerce had grown, and with it the complications

[1] This work was based on S. Ricard's *Traité Général du Commerce*, 1702, but was greatly elaborated. See Justice's own preface, and Wm. Forbes, *A Methodical Treatise Concerning Bills of Exchange*, 1718; 1st edn., 1703. The later editions mention Justice's work with approbation, p. vii.

of business, the traditions, national and international, of the big markets had become of fundamental importance to its very existence. Where they could find no place in law these traditions had grown by convention and by the rulings of arbitrators.[1] The rulings of the arbitrators were based, like all law, on a mixture of equity (in which the Civil Law had its place) and of precedent, and the range they covered was extraordinary. To the honest merchant, whom the credit of the bourse bound as closely as any power of coercion, the rulings of arbitrators had all the weight of law. Yet there is no doubt that the absence of legal compulsion was often felt. It was this need that had led to the earliest legal developments in such trading centres as the Italian cities,[2] the French fairs,[3] and the English Staples. Even in England, indeed, where no court dealt with these new mercantile transactions, they had not been until the early seventeenth century entirely without contact with the law of the land. Though their cases found little room in Common Law and received little sympathy from the Courts of Equity and the Admiralty except on certain well-marked lines, the elasticity of the King's prerogative justice stood them in good stead. In the sixteenth century the appeals to the King's Council on subjects of trade became very common " forasmuche as the matter . . . consistethe and standeth muche uppon the orders and usages of merchauntes by whom rather than by course of law yt may be forwarded and determyned," [4] and the council on many occasions gave legal force to commercial decisions by granting orders for arbitration by merchants or for *ad hoc* commissions. Moreover, this elastic and convenient method,

[1] For the early history of arbitration in England, cf. Thomas, *op. cit.*, pp. xxix–xxx.

[2] B. Straccha, *op. cit.* L. Goldschmidt, *Universalgeschichte des Handelsrechts*, 1891 edn.

[3] L. F. Bourquelot, *Etudes sur les Foires de Champagne.* Memoires présentés . . . a l'Academie des Inscriptions et Belles-lettres de l'institut Imperial de France. 1^me^ serie, t. V, 1865.

[4] Quoted by R. G. Marsden, *Select Pleas in the Admiralty Court*, Selden Soc., II, p. lxxvi.

already recognised in the Middle Ages, seemed capable of growth. It would not have been difficult for courts merchant such as were found abroad to have been formed under the ægis of the prerogative justice, as the Commissioners of Assurance were founded in 1601. But in the seventeenth century, just as the customs of the Law Merchant were being systematised in England, and their importance had reached an unparalleled height, the destruction of the Council's judicial powers by the Long Parliament left merchant customs without this, their one contact with the law.

No doubt this helped to bring the problem of the future of Law Merchant to a head, and two possibilities began clearly to be recognised. It seemed clear that either some legal recognition must be given to merchant courts in which the customary Law Merchant could be administered and enforced, or else the triumphant Common Law courts must themselves adopt some means to give sanction to claims put forward under the customs of the Law Merchant. The merchants would certainly have favoured the introduction of merchant tribunals which would have led in opposite directions the Common Law and the Law Merchant. The Italian consuls' courts, as described by Straccha, were on the whole their ideal. Bacon, in his speech introducing the bill which established in 1601 the Commissioners of Assurance, expressed merchant opinion when he argued that "our Courts have not the knowledge of their Terms, neither can they tell what to say upon their Causes, which be secret in their Science, proceeding out of their experience." [1] Malynes prided himself greatly on his share in the institution of these same Commissioners.[2] Molloy welcomed the legislation whereby in 1663 an attempt was made to give their powers some effect,[3] while Cary, whose interests were far more insular than theirs, added his support to the continental idea of

[1] Sir S. D'Ewes, *Parliamentary Journal*, 1682, p. 669.
[2] *Op. cit.*, pp. 146–7.
[3] *Op. cit.*, pp. 247–8.

Courts of Merchants . . . for the speedy deciding all differences relating to Sea Affairs, which are better ended by those who understand them, than they are in Westminster-Hall.[1]

On the other hand, though the precedents of Common Law could find no place for them, the common lawyers, with their customary vigour, were anxious to find some way at this, the height of their power, to draw merchant cases into their courts. Whilst at first they could find no method but the clumsy fiction of an "assumpsit" they soon began to take a bolder line, and are found making use of the maxim, "The Law Merchant is part of the laws of this Realm."[2]

Throughout most of the seventeenth century it was clear perhaps that there would be some conclusion, but when or what was still obscure. Side by side with the mounting use of the Common Law courts in merchant cases, stood the inactive Commissioners of Assurance, while the great bulk of mercantile legal business was still carried out by customary arbitration without any legal sanction. It was not till the very end of the century that a decisive step was taken, and when it was, it was done in so unspectacular a manner that its importance then and later was scarcely recognised. By a statute of 9 and 10 William II, c. 15, it was laid down that, for the convenience of trade, arbitration awards could be made a rule of any of the King's courts of record, and appeals could be made to these courts for the enforcement of a judgment or for setting it aside should it be proved to be partial or illegal.[3] Thus for the first time the merchant custom was granted a real place in the Common Law. Until that time, though there were many indications,

[1] J. Cary, *Essay on the State of England in Relation to its Trade, its Poor and its Taxes*, Bristol, 1695, p. 27.

[2] W. Holdsworth, *History of English Law*, Vol. V, 145.

[3] In the fifteenth century a somewhat similar procedure was common in the Mayor's Court (cf. Thomas, *op. cit.*, p. xxix), and such cases could also be brought before the Court of Exchequer, but at this period little resort was made to the Court for this purpose, probably on account of the slowness and complexity of its procedure.

no definite assurance of the future could be given. Quite without the intention of its framers, this statute marks an important stage in the reception of the Law Merchant into the law of the land.

The legal uncertainty of the whole seventeenth century is reflected in the treatment by its writers of the relations between the law and the customary *Lex Mercatoria*, with its equitable and international background. Malynes contented himself with defining his *Lex Mercatoria* as "Customary Law . . . and not a Law established by the Soueraigntie of any Prince, either in the first foundation or by continuance of time," though he maintained that knowledge of it "is of so great consequence that without it all Temporall Lawes are not compleat," [1] while Marius, too practical to waste time upon so academic a matter, in his treatment of the business of exchange ignored the law courts altogether. "As for Attachments," he wrote in his Preface, "and some few other cases on Bils of Exchange, I have purposely omitted, lest I should give occasion to any turbulent spirit to make contest where none need. The right dealing Merchant doth not care how little he hath to do in the Common Law or things of that nature." [2]

None of them can hide, however, from subsequent observers the fact that the law of England, despite certain unexpected scruples of Holt,[3] and an occasional reversion by Chancery to mediæval conceptions of usury, was at the beginning of a great reception. The Law Merchant in its non-national and customary development, and in its social need, was breaking a way into the Common Law. It was not, it is true, an altogether steady progress. There were points on which Common Law and the merchant customs were definitely at variance. At the end of the century there was a flicker of opposition from the common lawyers

[1] G. Malynes, *op. cit.*, "Epistle to the Reader."

[2] J. Marius, *op. cit.*, 2nd edition, 1655, "To the Reader."

[3] Clerke *v.* Martin, 1702. Eng. Repts., 92, p. 6. See Holdsworth's explanation of his attitude on the negotiability of promissory notes, *op. cit.*, VIII, 171 *seq.*

against "Lombard St." which "attempted . . . to give laws to "Westminster Hall," [1] and in return there was a sharp though temporary intensification of the merchants' claims for courts of their own. Sir Josiah Child laid down a series of suggestions for a merchants' court more strictly mercantile and summary than any in Europe where the Civil Law stood behind them [2]; Alexander Justice follows up every case he reports with laments on the restrictions which the law of the land imposed on trade.[3]

The reception of the Law Merchant which to the end of the seventeenth century might still seem not quite certain became in the eighteenth century inevitable. It is this certainty which is the clearest distinction of the eighteenth century from its predecessor. Merchants and lawyers both recognised it. Though the eighteenth-century merchant writers might quote with some approval the plans for merchant courts proposed in the seventeenth century, they show how far men's minds had departed from them. Malachy Postlethwayt, writing in 1751, paid lip service to these ideas, but was nevertheless inclined to see in the Common Law a movement favourable to the merchants' needs and to the "fundamental principles and maxims of reason whereupon those peculiar laws and customs ought to be grounded." [4] Even Weskett, who as late as 1780 drew up a scheme for merchant judges,[5] and was in consequence reproved by Park for giving "another proof of the weakness and fallibility of the human mind" [6] and for panting after foreign institutions, meant much less in his scheme than

[1] Clerk *v.* Martin, 1702. Eng. Repts., 92, p. 6. Cf. W. Holdsworth, VIII, 172.

[2] Sir Josiah Child, *A Discourse about Trade*, 1690, pp. 112 *seq.*

[3] [A. Justice], *A General Treatise of the Dominion and Laws of the Sea*, 1705, pp. 422, etc.

[4] *Op. cit.*, s.v. Bill of Exchange.

[5] J. Weskett, *Digest of the Theory, Laws and Practice of Insurance*, 1781, p. 149. The only exception appears to be Thomas Mortimer who, in his *Elements of Commerce, Politics and Finances* (London, 1772), expresses the greatest hostility to the Common Law.

[6] Sir J. A. Park, *A System of the Law of Marine Insurances*, 1787, p. xxxviii.

the seventeenth-century writers had done. He speaks elsewhere in his learned work on Insurance, of the English law, as taking from the civil and maritime laws what it considers equitable.

> The whole being corrected, altered, and amended, by acts of parliament and common usage ; so that out of this composition a body of jurisprudence is extracted, which owes its authority only to its reception here by consent of the crown and people.[1]

It is clear that he really assumes a complete reception of this customary law.

The eighteenth century, then, saw the completion of the reception set on foot by its predecessor. There was no change in the means by which this came about ; no break in the systematisation of customs which was the essential condition of it. The growth of purely practical literature to meet the purely practical needs of merchant readers served to mould together, as in a corpus, the traditions and writings of the preceding century. Beawes' *Lex Mercatoria Rediviva*,[2] Malachy Postlethwayt's *Universal Dictionary of Trade and Commerce*,[3] Rolt,[4] Mortimer [5] and others are a mine of acknowledged and (sometimes) unacknowledged verbal borrowings from Marius and Roberts, Malynes and Molloy. Moreover, new foreign influences of a systematising kind can also be traced. The theory of international law was growing steadily, and though the Admiralty Courts had lost nearly all direct touch with trade, the international problems of the great sea-wars kept them in touch with the study of international law on the Continent. Indeed,

[1] p. 10.

[2] 1st edn., 1752. The author states that this work is based on that of the two Savarys, but it is greatly changed to suit a later period and a different place. It continued to be printed and enlarged after its author's death.

[3] 1st edn., 1751. Originally based on Savary's *Dictionnaire*, this compilation always contained much extra material and by the time of the enlarged 4th edn., 1774, the original material was quite swamped.

[4] R. Rolt, *A New Dictionary of Trade and Commerce*, London, 1756.

[5] T. Mortimer, *Elements of Commerce, Politics and Finances*, London, 1772.

under the leadership of Stowell the Admiralty Court had its "short St. Martin's summer,"[1] and gave in the development of Prize Jurisdiction, the last gift of the old Civil Law to the legal organisation of England. To serve its needs it had brought together in the Library of the College of Advocates at Doctors' Commons, editions of the Sea Laws and Commercial Codes and a fine collection[2] of the works of foreign jurisconsults, and of political theorists—"these most excellent persons" as Molloy had said, "Who joyned Policy to Law."[3] Weskett relied on it greatly for the long list of authorities appended to his work. The interest in international law, and the recognition of its underlying principles was moreover at that time general. The "réponse sans réplique" to the Prussian king won its authors note throughout English society[4]; the training of a statesman was held to require a knowledge of the works of Puffendorf and Burlamaqui; Blackstone deplored the neglect by the gentry of a common law become too complex for the amateur, while

> A fashion has prevailed, especially of late, to transport the growing hopes of this island to foreign universities, in Switzerland, Germany, and Holland; which, though infinitely inferior to our own in every other consideration, have been looked upon as better nurseries of the civil or (which is nearly the same) of their own municipal law.[5]

At the same time a more popular type of foreign influence was exerted by the introduction of the French literature for merchants, Savary's *Parfait Négociant*,[6] his son's *Diction-*

[1] Maitland, *Roman Canon Law in the Church of England*, p. 97, 1898.
[2] Auction Catalogue of the Library of the College of Advocates, 1861.
[3] Molloy, *op. cit.*, Introduction, p. 6.
[4] John Holliday, *Life of Mansfield*, 1797. Cf. Sir E. Satow, *The Silesian Loan and Frederick the Great*, Oxford, 1915. For its text, see R. G. Marsden, *Law and Custom of the Sea*, Vol. II, pp. 348–74.
[5] *Commentaries*, 1844, ed. I, 4–5.
[6] 1st edn., 1675; for him see: A. Trouillier, *Jacques Savary*, Tijdshrift van Rechtgeschiedens, 1931, pp. 109 *seq.*, and H. Hauser, '*Le Parfait Négociant*' *de Jacques Savary*, Révue d'histoire economique et sociale, 1925, pp. 1–28.

naire,[1] translated and remodelled by Malachy Postlethwayt, Samuel Ricard's *Négoce d'Amsterdam*, his *Traité Général du Commerce*[2] and many others. From them was gained, among much miscellaneous information, some knowledge of the new codifications of commercial law on the Continent which completed the reception of the Law Merchant into national law and which were to influence the eighteenth-century development of England as earlier compilations had affected her growth in the seventeenth century. Most important among these were the French Ordinances of Exchange of 1673 and of Marine Law and Insurance of 1681. There are several partial collections of these codes made in English translation during the eighteenth century. The earliest big collection of the new sea laws is to be found in N. Magens, *Treatise on Insurances*, 1755, a translation and enlargement of his earlier work in German published at Hamburg in 1753. The French Marine Ordinances are to be found in translation as early as 1705 in A. Justice, *A General Treatise of the Dominion and Laws of the Sea . . .* 1705. In 1760 was published the great Commentary of Valin on the Ordinance of 1681,[3] and it obtained rapid recognition in England, as did the works of Emérigon twenty and twenty-three years later.[4] This knowledge was gained purely for practical purposes. Nothing is more mistaken than to dismiss the compilations of such eighteenth-century writers as Weskett, Postlethwayt and Beawes as of no practical importance and "little more than an index to foreign ordinances and usages."

[1] *Dictionnaire Universel de Commerce, d'histoire naturelle, d'arts et métiers*, Paris, 1723–30.

[2] [A. Justice], *A General Treatise of Monies and Exchanges*, 1707, was based on a translation of this work.

[3] R. J. Valin, *Commentaire sur l'Ordonnance de la Marine du mois d'août* 1681, La Rochelle, 1760.

[4] B. M. Emérigon, *Nouveau Commentaire sur l'Ordonnance de la Marine du Mois août* 1681, Marseilles, 1780. *Traité des Assurances et des Contrats à la Grosse*, Marseilles, 1783. The greatest collection of the Laws of Exchange, J. G. Siegelius, *Corpus Juris Cambialis*, 1742, later continued by Uhlius, does not, on the other hand, appear to have been used in England, probably because it was almost all in German.

"I may be permitted to say without offence," said Weskett, "that in whatever court maritime and *commercial disputes* and litigations are brought for adjudication, those who are to plead or to adjudge in such courts, cannot be too well acquainted with the *maritime laws* of weight and authority that have been promulgated in all wise and civilised nations." [1]

While Postlethwayt, who prided himself on the completeness of his information on exchange, gave in his dictionary the clauses of the ordinances of France, Hamburg, Frankfort on Maine, Augsburg, Amsterdam, Leipzig and Bologna, as well as a number of cases which had occurred in Scotland, all valuable he considered, inasmuch as

They are supported by the authority of those, who are allowed to have wrote the best on the subject, according to the established customs of the principal trading nations in Europe.

Such illustrations, he pointed out, make clear that

besides the laws and usages which are peculiar to particular nations and great trading cities in regard to matters of this nature, there are fundamental principles and maxims of reason, whereupon those peculiar laws and customs ought to be grounded.[2]

It is against such a theoretical background as this that we must see the work in commercial law of Holt at the beginning of the eighteenth century, and still more of Mansfield in its latter half, when they began the definite move towards complete incorporation. Mansfield has been judged by his contemporary enemies and his subsequent admirers as an alien and revolutionary influence working on English conditions.[3] But when he drew from all sources material

[1] J. Weskett, *op. cit.*, p. 97.

[2] M. Postlethwayt, *op. cit.*, Bill of Exchange.

[3] Lord Campbell, *Lives of the Chief Justices of England*, II, 394, remembered the time when it was the custom at Westminster Hall to sneer at Mansfield as one who had tried "to introduce into the Common Law some 'equitable doctrines' which had been rejected." He attributes this to a reaction against his long supremacy, led by Eldon and Kenyon, his personal enemies.

His political opponents accused him of a preference for the Civil over the Common Law, on account of his Scots origin. *Letters of Junius*, ed. C. W. Everett, 1927, p. 178.

for a stabilisation of commercial law, he was doing nothing revolutionary except to organise and to bring into the law itself the knowledge and viewpoint of enlightened merchant opinion. His use of foreign examples, his quotation of the works of jurisconsults, his use of portions of the Civil Law, and finally, the tendency to stress, where necessary, equity rather than precedent, for which his political enemies blamed him, was definitely in accordance with the tone of his age, and it was not unduly in advance of it. Moreover, just as he commanded the comparative material of the latest mercantile custom, so he shared the changing attitude of his time towards law. There was the world of difference between his deft intermixture of equity and tradition, his admiration of Blackstone as the man who made Coke readable, and the hard rationalism of a young man who was at that time attending Blackstone's lectures, Jeremy Bentham. Yet, (though it would have appeared inconceivable to the latter), both Mansfield and Blackstone represented a link between Bentham's ruthless use of reason and the old law, which had become so formal in its dependence on precedent, for they deliberately set themselves to complete the recognition by it, on the grounds both of utility and reason, of a great part of the new *Jus Gentium* of their time, the usages of commerce.

The means whereby this development could be achieved had also become clearer in the eighteenth century. That Mansfield should have been able, between 1756 to 1788, to lay on a firm basis the commercial law of the future, is proof how far by that time the courts had already adapted themselves to the pressure of need and the theory it engendered. This is true in the two chief aspects of the growing Law Merchant. In the law both of insurance and of bills of exchange and similar credit instruments, the basis had been laid by the end of the seventeenth century, though for the merchants of the time it seemed narrow enough, for the work of the eighteenth century. Bitter as was Sir Josiah Child's complaint of the merchant at law " where after great

Expences of Time and Money, it is well if we can make our own Council (being common Lawyers) understand one half of our Case, we being amongst them as in a Foreign Country,"[1] by the end of the century it was clear that the Law Merchant and the Common Law were inevitably drawing together. This can be seen from a series of statutes; in 1698 the regulation of the position of inland bills of exchange[2]; in 1704 the recognition of the negotiability of promissory notes[3]; the Acts of 1710 and 1734 aimed unsuccessfully at gaming policies,[4] and the more ambitious one of 1746 against both wages and reinsurance[5]; all these laid upon the common courts inevitable duties of interpretation. The direction of the development was shown, moreover, by the provisions in the Act of 1720 incorporating the two new bubble insurance companies, the Royal Exchange Assurance and the London Assurance, whereby it was laid down that causes arising in the course of their business should be tried at Westminster Hall.[6] More important than all other statutory measures, however, was the recognition in 9 & 10 William III, c. 15 of arbitration awards, already mentioned. In consequence of this statute, Blackstone noted "it is now become a considerable part of the business of the superior courts, to set aside such awards when partially or illegally made; or to enforce their execution, when legal . . ."[7] There was no surer way in which to bring into the body of the Common Law the customs of merchants which it was willing to recognise.

In the dictionaries of commerce and the merchant handbooks of all kinds can be seen how this incorporation was steadily going on. Among the quotations of foreign codes, of general customs, and of previous commentators, can now be seen a growing mass of English statutes and common law cases and the maxims which had by now become current

[1] Sir Josiah Child, *op. cit.*, p. 113.
[2] 9 Wm. III, c. 17.
[3] 3 & 4 Anne, c. 9.
[4] 9 Anne, c. 6 and 7 Geo. II, c. 8.
[5] 19 Geo. II, c. 37.
[6] 6 Geo. I, c. 18.
[7] Blackstone, *Commentaries*, iii, 16.

in the common law courts. Such cases and maxims, as Postlethwayt pointed out,

being maturely considered, will enable a thinking man to make a good judgment upon any other occurrences that relate to this important topic.

Their very voluminousness seemed to him valuable as covering more of "that infinite variety of transactions among mankind." Moreover,

Where cases are so faithfully and equitably reported as in England, a man of sense, though not bred to the law . . . may himself form a good judgment in most cases whether he is in the wrong or the right in going to law.

Statute Law appeared to him, indeed, less desirable, were it not that the judges could bring it by interpretation into line with the general trend of the law, for

in matters of law 'tis more for the advantage of the subject that Westminster Hall should, in this respect, controul St. Stephen's Chapel, than the latter the former; for otherwise the statutes which do not always quadrate with the sense and spirit of the Law, would subvert a great part of it, and render all reported cases useless to posterity.[1]

The merchant thought, in the days of the growth of recognition of his law, as much of tradition as the common lawyer himself. In this way international custom was merging into national law. The general and the particular, the national and the international, were by this means hardening out, the one into a positive law, the other into a supplementary custom, and, so far advanced was the process, that even the consolidating work of Mansfield, invaluable as it was, aroused complaints among their number that, unlike his predecessors, he gave out "not the known settled principles of law, but general rules of equity."[2]

It was the same point of view as that of the eighteenth-century lawyers, who, speaking both of policy of insurance

[1] M. Postlethwayt, *op. cit.*, Bill of Exchange.
[2] J. Weskett, *op. cit.*, p. xvi.

and bill of exchange (instruments of a strong legal similarity), upheld, in the old words, "the *intent* of the agreement, the usage of merchants," but also "above all . . . judicial determinations which are the strongest evidence of the received Law of Merchants." [1]

[1] FitzGerald *v.* Pole, House of Lords, March, 1754, Eng. Repts., 2, p. 297.

"THE CANNINGITE PARTY"

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It is well known that between 1801 and 1809 the Tory Party broke up into several groups led by Addington, Grenville, Wellesley, Perceval, and Canning, which were divided partly by personal, partly by political differences; and that the two-party system was temporarily superseded by the group system. Much new information concerning the smallest but the most distinguished of these various connexions is to be found in the Huskisson, Liverpool, Granville, Harrowby, Harewood, and other papers in public or private hands, which have recently been made accessible to the historian.

Canning's party would have emerged, like Sidmouth's, in 1801, instead of in 1809, but for his loyalty and devotion to Pitt, whom he "loved and reverenced as a father," and with whom he was determined always to act. It would have appeared in 1806, after Pitt's death, but for the absence of either personal or political differences which could separate Canning from the rump of Pitt's party. As early as 1798, indeed, Lady Holland tells us [1] that Canning had formed a squad of his own out of the great Tory Party, but at that time it was merely a group of personal friends who looked to Pitt as their common head; and it had little political significance.

Their friendships dated, for the most part, from either Eton or Christ Church days; and by 1802 most of Canning's lifelong supporters were in Parliament. In the first rank,

[1] Lady Holland's *Journal*, i, 217–18, 265.

in point of intimacy, were Charles Ellis, Lord Granville Leveson-Gower, and William Huskisson. Ellis, who shared with his cousin George the representation of Seaford between 1796 and 1802, was for many years the head of the West Indian interest in the Commons. Canning once referred to him as "a person who, after my own family, is the nearest to me in the world"[1]; and it was said of him that, with the exception of Huskisson, he was the only one who at any moment could enter Canning's private room, whilst Canning was Foreign Secretary.[2] Granville Leveson was known at this time chiefly as a great gambler [3] and a man of fashion, whose friendships and political inclinations were Whig rather than Tory. He married a Cavendish, supported the Grenville Ministry, and was much attached to Fox, from whom he might have had a peerage in 1806.[4] Huskisson had been acquainted with Canning for some years, but joined Canning's group only in 1806 when, as he said, "we were all separated and set loose by the death of Mr. Pitt."[5]

In the second rank of Canning's friends were William Sturges, Lord Binning, Lord Boringdon, Lord Morpeth, and Robert Smith. Sturges, who assumed the additional surname Bourne in 1803, became intimate with Canning at their preparatory school near Winchester, and their friendship, interrupted when Canning was sent to Eton, was renewed at Oxford. He was always a great alarmist, and Canning would invent absurd stories to excite his apprehensions.[6] Binning was the son of the Scottish Earl of Haddington, and entered Parliament in 1802. Boringdon was Can-

[1] P.R.O., G.D. 29, *Private Granville MSS.* Canning to Charles Ellis, 27 May, 1826.

[2] *Hatherton MSS.* Hatherton's *Diary*, 2 July, 1845.

[3] He confessed that he had lost between £80,000 and £100,000 in early life (*Hatherton MSS. Diary*, 22 Feb., 1818).

[4] It was thought that had Fox lived, Granville Leveson would have formally connected himself with the Whigs (*Harrowby MSS.* Lady Bathurst to Lady Harrowby, n.d. [1806]).

[5] Spencer Walpole's *Life of Perceval*, ii. 17.

[6] *Hatherton MSS. Diary*, 18 April, 1833. Canning once spoke of "his natural disposition to see in black rather than in rose-colour" (Brit. Mus. Add. MS. [Huskisson Papers] 38737, f. 163).

ning's first adherent in the House of Lords. Morpeth, the son of Lord Carlisle, was politically separated from Canning after 1804, but they were reunited in 1827. " Bobus " Smith, Sydney Smith's brother, went to India in 1803 as Advocate General of Bengal, returning home in 1811 with a large fortune.

Of the other members of Canning's group, the two Freres, father and son, were not re-elected after the Dissolution of 1802, Hookham Frere abandoning politics for the diplomatic service. Robert Holt Leigh, Hylton Joliffe, and Bootle Wilbraham, were country gentlemen. John Dent, the son of a Cumberland schoolmaster, had risen to the position of a partner in Child's Bank, and was one of the wealthiest of Canning's friends.[1] His special function was to give dinners. From his having introduced a Bill for taxing dogs, he was popularly known as " Dog Dent."

When in March, 1801, Pitt resigned on the Catholic Question, he urged his followers to remain in office under Addington, but Canning threw up his Paymastership, saying that he could take part with no Government of which Pitt was not the head.[2] Granville Leveson resigned his seat at the Treasury Board, and Sturges Bourne refused an Under-Secretaryship. The Tory Party was shattered, and, as Canning remarked, its members were now free to form new connexions of a " less wide and therefore more binding nature." [3] He himself refused to hoist a separate party standard because of his attachment to Pitt.

Pitt had pledged himself to support the new Government, and throughout the summer of 1801 was anxious that Canning should resume office. Such a sacrifice of his personal feelings, Boringdon, Granville Leveson, and Bourne urged him not to make; but Boringdon thought that he ought to gratify Pitt by putting himself on friendly terms with Addington, giving him a steady parliamentary support,

[1] *Gent. Mag.*, Feb. 1827, p. 179.
[2] *Harewood MSS.* Canning to Newbolt, Sat.
[3] *Granville MSS.* Canning to Granville Leveson, 6 Dec., 1806.

and eventually taking office when his motives could no longer be misinterpreted.[1]

Canning, who despised a Ministry which he considered incapable either of conducting the war or of concluding a satisfactory peace, could not be persuaded to see things in this light, and a new point of difference between him and Boringdon arose in October, 1801, when the preliminary peace treaty was signed; for whereas Canning thought it execrable, Boringdon said it was honourable and advantageous. Canning never disputed his friends' right to their opinions, and now angrily complained, not of Boringdon's approbation of the Peace, but of his "studied reserve" in concealing the fact that he had written to the Under Foreign Secretary, congratulating him on the Treaty, and that he had given his proxy to one of the Ministers. Canning hastily jumped to the conclusion that, all unknown to him, Boringdon was endeavouring to "make his peace" with Addington, and was determined not only to vote for the Treaty, but also to give the Government a general support. "This is, I think," wrote Canning, "a conduct, as unfair towards me, as it is discreditable and humiliating to himself. It sinks *him* in my opinion as much as (let him not flatter himself) it *must* do in that of those whom he means to propitiate; and as to confidence between us upon such subjects in future, I utterly abjure it." [2]

Boringdon, however, explained the matter satisfactorily to Charles Ellis,[3] and Canning was appeased. Boringdon's opinion of the Peace, and his disposition to support a government to which he had originally felt strong objections, were shared by none of his friends; yet Canning saw that he could not go into opposition "without breaking with Pitt violently and publicly." [4] He admitted that the Peace was highly popular, and in the Commons the Definitive

[1] *Granville MSS.* Boringdon to Granville Leveson, 7 Sept., 1801.
[2] *Ibid.* Canning to Granville Leveson, 27 Nov., 1801.
[3] *Ibid.* Boringdon to Granville Leveson, 5 and 15 Nov., 7 Dec., 1801; Chas. Ellis to Granville Leveson, 18 Dec., 1801.
[4] *Ibid.* Canning to Granville Leveson, 14 Oct., 1801.

Treaty was approved by 276 to 20, the minority including Morpeth and the two Ellises.[1] Canning himself was unavoidably absent, but in a later speech made it clear how he would have voted.[2]

As he owed his seat to Pitt, it was not until he had bought an Irish rotten borough that he felt free to act as he pleased, in the new Parliament which met in November, 1802. By June, 1803, Pitt was no longer defending Addington, yet he declined to support Colonel Patten's motion of censure (3 June), and evaded the issue by moving the order of the day. Pitt's amendment was defeated by 333 to 56, whereupon he and some of his friends left the House. Then Canning, declaring that he felt compelled to differ from Pitt for the first time in his life, voted with the Opposition. Unsupported by the Foxites, they could muster only 34 (36 according to Canning). The division list is not in the *Parliamentary History*, but Canning gives us the names of the minority in a (partly) unpublished letter. There were 12 " Grenvilles and Windhams," 5 " Fitzwilliams," 5 " stragglers " and 14 " Us, or Pitt's friends." The fact that, in

[1] Granville Leveson decided not to vote, on the ground that it was not worth while to risk his seat at the General Election when he had already expressed his disapproval of the Preliminary Treaty (*Granville MSS.* Canning to Granville Leveson, 5 May, 1802).

[2] Canning wrote to Frere (1 June, 1802): " You will have seen that Charles was ready too with a vote against the Peace—and George, and Morpeth. For George I was not prepared. Morpeth I was well aware of. And Charles I knew had a strong inclination to give such a vote—but till it was actually given I did not feel sure that his heart might not fail him. His stoutness I believe was much corroborated by finding himself reckoned upon so confidently the other way—Hervey praying him to come up, and his t'other uncle Jenk sitting by him during the debate and looking grateful for his attention in coming up two days following from Claremont . . . You may conceive the astonishment and indignation that his vote produced. It is of course referred to me—and the shame of being so much under influence is imputed to him and to Morpeth in a way to make the *latter* still more inveterate against the present people than he was before . . . It was said too that *I* was very cowardly not to show my opinion by *my own* vote instead of by those of my friends. Hence I took occasion in opening the Trinidad motion to declare as plainly as I could what was my opinion upon the Peace, and to intimate the reasons which had alone prevented me from acting upon it " (Add. MS. (Canning and Frere Papers) 38883, f. 121).

the absence of four other friends[1] Canning had 13 supporters,[2] indicates that his recent efforts to create an *ad hoc* Opposition party of his own, had met with some success. He had asked Bootle Wilbraham to approach various members,[3] and two who were invited to co-operate now voted with Canning. One was Colonel Patten; the other, Sir Robert Lawley, is mentioned by Speaker Abbot as a member of Canning's party at this time.[4] Curiously enough, Bootle himself was not among the 14: Canning says that he "shirked," and, to his great astonishment, Boringdon in the other House voted with the Government on a similar issue, "after joining for the last two months, as heartily as heart could desire, in the cry against the Doctor."

The Session came to an end with Addington's position apparently unshaken, and with Canning increasingly doubtful whether he would be able to keep in step with Pitt, who still refused to go into opposition.[5] Yet the debate on 3 June had separated Pitt from Addington, and with growing satisfaction Canning watched the progress of the estrangement. The Grenvilles and Windhams coalesced with the Foxites, and the Government's majority fell to 37 on 25 April, 1804. A few days later Addington resigned and Pitt returned to power. To this result Canning had materially contributed. Sixteen persons who had acted with him since June, 1803, voted with him in the two final divisions, and he claimed to have influenced the votes of several others.[6]

But it was a barren victory, and because his cherished

[1] Charles Ellis, Binning, Joliffe, Holt Leigh.

[2] Bourne, Cartwright, Dent, Hon. H. A. Dillon, Sir Wm. Elford, Gascoyne, F. Gregor, Sir R. Lawley, Leveson, Sir H. Mildmay, Morpeth, Osborn, and Patten. Canning added: "Dillon is *perhaps* rather a Windhamite than one of us" (Add. MS. 38883, f. 149). Letter partly printed, without Lists, in Festing, *Frere and his Friends*, p. 95.

[3] Bagot, *Canning and his Friends*, i, 197.

[4] Colchester, *Diary*, i, 412, 487.

[5] *Granville MSS.* Canning to Granville Leveson, 17 Nov., 1803.

[6] P.R.O., *Private Pitt MSS.* 120. Canning to Pitt, 9 May, 1804. Of the sixteen, Dillon, Sir Wm. Elford, Gregor, John Osborn, and Patten were not really members of Canning's group.

plan of a " comprehensive Ministry " which should include Grenville, Fox and the Whigs, proved impracticable, he at first refused office,[1] and his friends were just as keenly disappointed. Morpeth went into opposition, and Canning spoke of Sturges Bourne's " excessive despondency and lamentation." [2] Granville Leveson [3] entertained the idea of " a Party of Pitt's friends out of office," but Canning doubted its feasibility, yet afterwards believed that had such a party, however small, come into existence, it would have held the balance, would have been called upon at the beginning of 1805 to strengthen the Government in the Commons, and would have brought " the best part of Opposition with it." [4]

As it was, Addington's group was then brought in, and Canning in disgust tendered his resignation; but when Pitt told him that it would be a breach for ever, he agreed to remain—" under circumstances so mortifying and intolerable," he said, " that I can hardly answer for myself from one day to another." [5] Granville's elder brother, Lord Stafford, went into opposition, and Granville declared that he would have done the same had he been in England.[6]

To Canning's " infinite delight " the Sidmouth party retired in July, but hardly had he re-established confidential relations with Pitt, when Pitt died, in January, 1806. The Cabinet abandoned an untenable position, and Grenville formed a coalition ministry from his own, the Foxite, and Sidmouth groups. Canning considered Grenville " the only fit man to be at the head of the Government "; the man best capable of keeping the remains of Pitt's party together; and he went into opposition only because Grenville had proscribed the Pittites and made an alliance with the Whigs and the despised Addingtonites.

Several of his friends now felt unable to support him.

[1] *Festing*, p. 104. [2] *Pitt MSS.* (120) Canning to Pitt, 9 May, 1804.
[3] In July he accepted the St. Petersburg Embassy.
[4] *Granville MSS.* Canning to Granville Leveson, 25 Feb., 1805.
[5] *Ibid.* Canning to Granville Leveson, 6 and 11 Jan., 1805.
[6] *Ibid.* Granville Leveson to Morpeth, April, 1805.

Morpeth, too, lamented the failure to form a Broad Bottom Administration,[1] yet took office with the Whigs. Boringdon was evidently uncomfortable in opposition, for Canning wrote in January, 1807: "I am vexed at what I hear of Boringdon's language . . . If he is weary of opposition, he had better troop over to Lord Grenville."[2] Granville Leveson was urged to remain at St. Petersburg, but though he decided to return home, he joined the Whigs, with the result that he and Canning were estranged.

"Be assured," Canning wrote to him in September,[3] "that nothing in politics can diminish my affection for you, though undoubtedly a difference of political attachments, opinions and pursuits must unavoidably and without any fault on either side, abate those habits of confidence, which it certainly would have been no small happiness to me to have preserved unabated to the end of our lives."

But the breach widened after Fox's death in September, Canning feeling aggrieved because of his friend's lack of candour. In 1805 Granville had decided to ask for a peerage,[4] and a few days after Pitt's death, Canning had assured him that he would join no government without stipulating it for him. "When I voluntarily undertook to act with no Government that should not use you personally well," Canning wrote to him in December,[5] "I was at least entitled to know that it would be no bar to your acting with any Government, that it had used me personally ill." He further complained that Granville had again misled him after Fox's death. He said:

"You had laid so much stress upon Fox individually, had spoken with so little partiality of Lord Grenville, had resolved so decidedly to keep yourself unpledged *except* to Fox, that I did think it *possible* that you might feel your obligations released;

[1] *Granville MSS.* Morpeth to Granville Leveson, 7 Feb. and 24 Sept., 1806.
[2] Add. MS. 38883, f. 225. To J. H. Frere, 28 Jan., 1807.
[3] *Granville MSS.* Canning to Granville Leveson, 23 Sept., 1806.
[4] *Harrowby MSS.* Canning to Lord Harrowby, 29 Dec., 1807.
[5] *Granville MSS.* Canning to Granville Leveson, 6 Dec., 1806.

and, imagining you might by this time have heard a little more of the true character and estimation of the Government (Lord Grenville being, *with you*, no atonement for the Mass) I was less surprised than delighted at the prospect which your letter, or my own foolish construction of it, opened to me. . . . What I complain of in this is that your determination being, from the beginning, to be *with the Government*, you should have thought it worth while to dazzle me with your admiration of Fox, *without* whom, as *with* him, your part was *equally* taken. Had Fox not died, I should still up to this moment have believed that your attachment to *him* was the *sole* cause of your connexion with the Government. And if anything had deferred your return from Petersburg I should have cherished the still fonder delusion that your affection for me had afforded a motive of action that almost counterbalanced your attachment to Fox. I again repeat, I do not complain that these things are not so, but that being otherwise, I was made or suffered to see them in a false light."

Lady Holland had alleged in 1798 that Canning exercised a despotic control not only of his friends' votes but also of their social relations. Granville Leveson now in turn complained that it was one of Canning's peculiar personal qualities that he allowed political opinions and conduct to interfere with private habits of friendship. Obviously Canning held most strongly that the political connexions of public men must unavoidably have considerable influence on their private friendships.[1]

Grenville made several efforts to detach Canning from the Opposition, and one or two of his friends were also to be brought in,[2] but before the difficulties in the way could be overcome, the Ministry, like Pitt's in 1801, foundered on the rock of catholic emancipation. In March, 1807, therefore, the Pittites returned to office, and during the

[1] *Granville MSS.* Canning to Granville Leveson, 6 Dec., 1806.

[2] Sturges Bourne and Huskisson, it seems, would probably have been given places; Sir Henry Mildmay would have had a peerage; and Charles Long and George Rose (Pittites now acting with Canning) were also to be provided for. (*Fortescue and Lonsdale Papers* in Hist. MSS. Comm. Reports; *Rose MSS.* in Brit. Museum, not yet fully catalogued; *Granville MSS.*; Lady Holland's *Journal*, ii, 208; and Buckingham, *Courts & Cabinets of George III*, iv, 125–41.)

next few years Canning, who became Foreign Secretary, fought with Castlereagh and Perceval for the leadership of their party. Several of his friends were given places. Huskisson accepted the joint secretaryship of the treasury, and Sturges Bourne a seat at the Treasury Board, but Boringdon declined the office of Master of the King's Buckhounds.[1] Lord Fitzharris, the son of Canning's old friend Malmesbury, became his Under-Secretary; and when, a few months later, he resigned in order to take a less strenuous post, he was succeeded by another friend, Charles Bagot.[2] On public grounds Canning asked Granville Leveson to return to St. Petersburg, but said that unless he agreed to go, they ought not to meet.[3] Five days later, on 7 April, Granville accepted, in the belief that if he omitted to take advantage of that opportunity of re-establishing confidential relations with his friend, they would be separated for ever.[4] But he had pledged himself to vote for the Whig motion of censure in regard to the dismissal of the Grenville Ministry, and he did vote both for Brand's motion on the 9th and for a similar motion on the 15th. To his voting on the first occasion Canning had little objection, but since by the 15th Leveson was in the King's service, Canning told him that morning that his intention was "monstrous and mischievous." "My opinion upon it is so strong," he said, "that I do not hesitate to say that if you feel yourself compelled to vote, or to attend the House of Commons as a partisan any more, it would be much better to give up Petersburg altogether." Canning saw him later in the day, and left him still undecided, "in a state of great anxiety and unhappiness"—his Whig friends pressing him to carry out the promise which he had made under the impression that the motion was to have been debated the previous Friday (the 10th), when he was not actually in the King's

[1] *Granville MSS.* Morley to Granville, 19 Sept., 1822; Add. MSS. (Liverpool Papers) 38193, f. 183.

[2] *Bagot*, i, 238; *Letters of First Earl of Malmesbury*, ii, 25, 181.

[3] *Granville MSS.* Canning to Granville Leveson, 2 April, 1807.

[4] *Private Corr. of Lord G. L. Gower*, ii, 247.

service. In the evening Canning saw Castlereagh and Perceval at the House, and both agreed with him that if the Whigs could fairly say that Leveson had promised them his vote, he ought to put his honour out of all question, and tender his resignation next day. He acted on their advice, and the Cabinet unanimously decided to leave the matter to Canning's discretion. Accordingly, having ascertained from Leveson that he was not pledged for the future, Canning advised the King not to accept the resignation.[1] When, after Tilsit, he returned home, his politics were never in doubt, and in July, 1809, Canning's influence brought him into the Cabinet as Secretary at War.[2]

But the Portland Ministry was then in a state of collapse, and a few weeks later Canning resigned. His friends were confident that George III would never consent to his being Prime Minister, but Mrs. Canning believed that this obstacle was not insuperable,[3] and it was perhaps she who advised him to offer his services to the King after Portland had resigned. But he was ignored, and, failing to get the premiership, he refused to serve under Perceval. Huskisson, Granville Leveson, Sturges Bourne, and Charles Bagot followed him out of office.[4]

[1] *Granville MSS.* Canning to Granville Leveson, 15, 17, and 18 April, 1807; Granville Leveson to Canning, 7 and 18 April, 1807.

[2] Granville Leveson was ready to take the office either of Secretary at War or of President of the Board of Control. (*Windsor MSS.*, Portland to the King, 18 June, 1809.)

[3] *Granville MSS.* Boringdon to Granville Leveson, 4 and 8 April, and three other undated letters (written, probably, in April, 1809). This is confirmed by Queen Charlotte's letter to the Prince Regent, dated 21 May, 1812: " . . . With infinite concern do I see by to-day's papers that the correspondence as well as the conversation between Lord Liverpool, Marquis of Wellesley and Mr. Canning (not Cunning) is published. This is the first time I ever remember such a transaction being given out in the public prints, and I can not help reflecting with pleasure how well the dear King judged the characters of those two individuals, by proving themselves such as he always described them to me . . ." (*Windsor MSS.*). Boringdon thought that in view of the King's prejudices, Canning ought to open negotiations with the Whigs, and agree to serve under Lord Grey.

[4] Walpole's *Perceval*, ii, 15; Rose, *Diaries*, ii, 350, 485; *Malmesbury Corresp.*, ii, 146.

Canning's alleged intrigues, and his unfortunate quarrel with Castlereagh, caused him to lose ground in public estimation, and several friends and allies now deserted him. George Rose, who for three years had thought him the person most likely to keep Pitt's friends together, felt that he could not be a party to the breaking up of the Government.[1] Charles Long, another Pittite, was persuaded to withdraw his resignation ; and Lord Fitzharris and Robert Pemberton Milnes (Canningites since 1806–7) now attached themselves to Perceval.[2] Sturges Bourne acknowledged that Canning was now very unpopular, and Leveson told him that the best thing that could happen to him would be to remain some years out of office.[3]

He had no intention of joining the Whigs, declaring that he would act independently of all other parties, and would support the Government when he thought it right, in spite of the " treacherous, hypocritical, mean and jealous spirit " which Perceval, he said, had betrayed towards him.[4] The Parliamentary Debates show that this line of action was followed in the Sessions of 1810, 1811, and 1812. In January, 1811, with eleven of his friends, he voted against the Government on the question of restricting the powers of the Prince Regent ; but Bootle Wilbraham, and Sturges Bourne, who was on somewhat friendly terms with Perceval, voted the other way. On 27 February, 1812, the Canningites supported a Whig motion of censure, chiefly on the ground that the Ministers had virtually announced that the Catholic

[1] *Rose*, ii, 353 ; *Plumer Ward's Diary*, i, 302 ; *Malmesbury Corr.*, ii, 161. Canning wrote to Granville Leveson (19 Sept., 1809) : " You will be glad to learn that Huskisson has proved not only true but most zealous. And I know not how to be *very* sorry to have to tell you that old Rose *in tears* remains Treasurer of the Navy " (*Granville MSS.*).

[2] *Rose*, ii, 383, 401 ; Walpole's *Perceval*, ii, 47, 49 ; Bulwer's *Palmerston*, i, 92 ; *Malmesbury Corr.*, ii, 169–92.

[3] *Granville MSS.* Canning to Granville Leveson, 16 Aug., 1811 ; *Plumer Ward*, i, 351, 357. Possibly it was at this time that Gascoyne, who represented Liverpool, quarrelled with Canning and his friends (*Plumer Ward*, i. 338).

[4] *Bagot*, i, 336, 346 ; Add. MSS. 38738, f. 92. Canning to Huskisson, 5 July, 1811.

Question would never be brought forward by the Cabinet. If, as was alleged, Canning had ever really entertained the hope of dominating the parliamentary situation by being able decisively to throw his weight into either scale, he was disappointed; for though both he and the Whigs made great efforts to procure a good attendance (Ponsonby getting out of bed with a broken rib to vote at four o'clock in the morning, and Dent, also ill in bed, making an effort equally heroic), Perceval had a majority of 72.[1]

The introduction of Castlereagh and the Sidmouth party into the Government, a few weeks later, is said to have increased Canning's hostility, and it was supposed that he would unite with the Whigs; but many of them, such as Grey, Brougham, Whitbread and the "Mountain," regarded him as a faithless ally, who had deserted Perceval after having tried to ruin Castlereagh.

A new Ministry had to be formed in May, 1812, when Perceval was assassinated. After Canning and his ally Wellesley had rejected Lord Liverpool's overtures, ostensibly because of their differences on the Catholic Question, Wellesley was authorised to form a comprehensive Government favourable to the Catholic cause. The existing Cabinet, however, declined to serve under Wellesley, who then opened negotiations with Grey and Grenville. Canning was to have had either the Foreign Office or the Chancellorship of the Exchequer; Huskisson the Exchequer (had Canning refused it) or the offices of Vice-President of the Board of Trade and Treasurer of the Navy; Granville Leveson a peerage with the Cabinet office of Secretary for War or President of the Board of Trade; Robert Smith, recently returned from India, a seat at the Treasury Board or the post of Judge Advocate-General; and J. W. Ward, who was about to desert the Whigs and enlist under Canning, the Secretaryship at War.[2]

[1] *Plumer Ward*, i, 450–51.
[2] Add. MS. (Wellesley Papers) 37297, ff. 166–70.

But Wellesley's negotiations proved abortive, and Liverpool formed a ministry in which all the Tory groups except those of Canning and Wellesley were represented. Canning's ill-judged refusal of the Foreign Secretaryship on the ground that Castlereagh was to retain the lead in the House of Commons, seriously damaged his own and his friends' prospects. He regretted the decision almost as soon as it was taken, and his relations with Granville Leveson, who was chiefly responsible for it, were seriously strained. Stapleton said that nearly all Canning's friends were to have been given office.[1] Canning deeply regretted that this might not be their only loss, recognising that many of them might be without seats after the general election. "It is not pleasant to reflect," he said, "that a point of honour (if it be one) of mine is the occasion of such a martyrdom."[2]

At this moment his party numbered fifteen, including Ward, who changed his allegiance in August, and E. J. Littleton, afterwards Lord Hatherton, who had just inherited the Staffordshire estates of his uncle Sir Edward Littleton, and been returned for the County in June. The latter afterwards declared that he joined Canning's party the very day he took his seat, because he "could not proclaim himself a Tory of the Liverpool school." "At my first election dinner," he wrote, "I gave 'the cause of civil and religious liberty throughout the world,' which made old Mr. Mott, the Lichfield Proctor, turn round as if he were shot." And his opponent, Sir John Wrottesley, soon told him, "I see you are as good a Whig as I am."[3] His marriage in October with one of Wellesley's daughters gave him the entrée into the select Canning circle. He tells us that they often dined

[1] *Pol. Life of Canning*, i, 67. Huskisson was to have been Irish Secretary (apparently, not Treasurer of the Navy, as Chas. Abbot reported: Colchester, *Diary*, ii, 398); Granville Leveson to have had a Cabinet Office and a peerage; Binning would probably have been Canning's Under-Secretary (Add. MSS. 38568, f. 29; 38742, f. 204; Buckingham's *Regency Memoirs*, i, 400; Wellington, *Desp. Corr., and Memo.*, i, 355).

[2] *Granville MSS.* Canning to Granville Leveson, 27 Sept., 1812.

[3] *Hatherton MSS. Diary*, 1 Sept., 1847.

at Gloucester Lodge on Sundays whilst Parliament was in session.[1]

At the general election in the autumn of 1812 the Government naturally assumed that all who were not for it were against it, and some of the Canningites and Wellesley's members were opposed by ministerial candidates. Canning's enemies had prophesied that the elections would shatter his little party, since some of its members owed their seats to the Treasury.[2] The prophets were right in that six out of the fifteen were without seats in the new Parliament; they were wrong, in that Canning had a following of twelve during the Session of 1813. Two of the losses were permanent.[3] Dent was unexpectedly defeated at Poole by Government and Carlton House candidates.[4] Sturges Bourne was naturally dismissed from Christchurch by his patron George Rose.[5] Binning's hopes of being nominated for Arundel were dashed.[6] Bootle Wilbraham, though defeated at Newcastle-under-Lyme, was given a Government seat in December, and therefore deserted Canning. Wilbraham wrote in October, 1814[7]:

"I have for near two years ceased to have any intimacy and almost any intercourse with him, on account of the difference which has subsisted in our political sentiments and attachments."

Their estrangement was not permanent, for we find Canning corresponding with him confidentially in 1822, and

[1] *Ibid. Autobiography.* He specifically mentions Huskisson, Leveson, Bourne, Ward, Boringdon, Binning, and Smith, and says there were several others. "Lady Granville, Mrs. Huskisson and Lady Morley," he adds, "were always of the party, and frequently some of Lord Stafford's family, the Gowers."

[2] *Plumer Ward*, i, 339.

[3] Greenough and William Taylor.

[4] Add. MS. 38739, f. 70.

[5] Canning offered Bourne the borough of Honiton, but he failed to reply in time; whereupon Canning nominated G. A. Robinson, a Director of the East India Company (Ross, *Cornwallis Corresp.*, i, 455 n.; Add. MSS. 38739, ff. 38, 69; *Bagot*, i, 396).

[6] Add. MSS. 38739, ff. 1, 9, 11, 51–2, 69, 78, 80.

[7] Add. MS. 38260, f. 2. Wilbraham to Lord Liverpool, 23 Oct., 1814.

his peerage, promised by Goderich in 1827 and actually received early in 1828, was probably conferred out of deference to Canning's memory.

The Government wisely made no effort to molest Canning at Liverpool, but Vansittart ejected Huskisson from Harwich, and an unsuccessful attempt was made to defeat Charles Ellis at Seaford.[1]

In the new Parliament Canning still sought to maintain a neutral position. He wrote to Wellesley[2]:

"I know that the stand upon the isthmus between the two parties is very difficult to maintain. I have kept my balance there for near three years, and can therefore speak to it with some experience; but I am equally convinced that it ought to be maintained at whatever cost of exertion, and that in retreating from the Ministry to fall over into the Opposition would be to lose entirely the vantage ground which we occupy in public opinion, and to identify ourselves with a lost cause. To change my metaphor—our object . . . is to force the present Ministry to a capitulation, *not* to put the whole garrison to the sword—not that I care how many wounds and contusions they all and each of them receive in the course of the siege. I only wish that a few of them may be left alive to man the lower part of the works, if

[1] Add. MS. 38739, ff. 7, 36, 50. There are estimates of the strength of the Canning and Wellesley groups after the General Election in Parker's *Peel*, i, 45, 62; Brougham's *Life & Times*, ii, 71; Buckingham's *Regency Memoirs*, i, 411; Add. MS. 38363, f. 64. Since this was written, I have seen, in the *Windsor MSS.*, Canning's letter of 17 Oct., 1812, to McMahon, the Prince Regent's secretary, in the course of which he says: "My friends are in general safe in their returns to Parliament. Three only have failed—Dent, Lord Binning, and Taylor. But I am returned or to be *returned* for *two* places besides Liverpool [he was returned for his friend Joliffe's borough, Petersfield, on 9 October, and for Sligo borough on 5 November]—so that I shall be able *nearly* to replace my old number; and I have had the satisfaction of being assured of support in new quarters, where I had no title to expect it." [This probably refers to Sir L. Holmes' offer of his boroughs to Canning and Wellesley.] Rather curiously, therefore, Canning in this letter leaves Sturges Bourne, Greenough, and Bootle Wilbraham out of account, but his other letters, and those of his friends, show that he was anxious for their return too. He did make use of his double return for Petersfield [see p. 223], but a person who was never a member of Canning's party was returned for Sligo borough on 5 April, 1813.

[2] *Ibid.*, 37297, f. 187.

the fort should ever be put into our hands : and I think it desirable that the terms on which their lives are spared should not be *so* absolutely disgraceful as to make them utterly unusable hereafter."

But Canning underestimated the capacity of his rivals and the hostility of public opinion to the Catholic cause.- It was he, eventually, who had to capitulate and serve in the House of Commons under a man whose abilities in 1809 he had despised.

Unwilling to injure further his friends' prospects, Canning about 20 July, 1813,[1] severed his connection with Wellesley, and formally disbanded his own Party. His enemies alleged that, like the weasel, he made himself smaller in order that he might creep into office more easily.[2] Charles Ellis told Granville Leveson that they must be prepared for much spiteful comment, and when, shortly afterwards, he met the Hollands in Brighton, he tried to minimise the significance of the step :

" I said that we had never been of sufficient importance to deserve the name of a Party, and that I was not aware that there was any reason, in anything which had happened, why we should not be all of us, as great friends as ever. And that, for anything I knew to the contrary, we were so." [3]

A few days later Liverpool made a half-hearted attempt to bring about Canning's return to office, but no actual proposals were made because, though Lord Melville was willing to resign the Admiralty in his favour, the Earl of Buckinghamshire declined to make way for Melville at the Board of Control.[4]

To Canning's followers the dissolution of the Party was

[1] Ward received his " dismissal from his master's service " on 20 July (Dudley, *Letters to " Ivy,"* p. 209 ; *Creevey Papers*, p. 183 ; Add. MS. 38739, f. 101).

[2] *Letters to " Ivy,"* p. 215.

[3] *Granville MSS.* Ellis to Granville Leveson, 24 Oct., 1813.

[4] Canning heard of this from Melville on 28 July (*Granville MSS.* Canning to Granville Leveson, 30 July, 1813 ; Add. MS. 38568, f. 56 ; *Bagot*, i, 399 ; *Letters to " Ivy,"* p. 213 ; *Colchester*, ii, 454 ; *Private Corr. of Lord Granville Leveson Gower*, ii, 470).

an unexpected and unwelcome event. Ward quaintly remarked to his friend Littleton:

"I was travelling along the road in the most agreeable manner with some chosen friends, when suddenly the coach pulls up and desires me and the other passengers to step out. Accordingly I had nothing for it but to sit patiently on the bank till the ministerial 'Bang-up' came by; and I advise you to accept of the same conveyance." [1]

The Government coach picked up some of them twelve months later when Canning, having decided to pass the winter of 1814–15 in Portugal for the sake of his son's health, reluctantly accepted the Lisbon Embassy which Lord Liverpool pressed upon him.[2]

It was part of the arrangement that places or honours should be given to some of Canning's friends. On the one hand, bitterly conscious of their costly fidelity to him in 1812, he was anxious to make them some reparation by placing their political fortunes "out of the reach of the precariousness" of his own [3]; on the other hand, Liverpool wished to attach the Canningites more securely to the Government. Huskisson had been opposing Vansittart's currency and financial measures, and in 1813 had voted against the Army Estimates, whilst in the Lords, Boringdon had criticised the Government's conduct of the Peninsular War.

The arrangements were of a more extensive nature than has commonly been imagined.[4] Huskisson accepted the

[1] *Hatherton MSS.* Autobiography.

[2] See Professor Temperley's Article in the *Engl. Hist. Review*, July, 1930, p. 424.

[3] Lane-Poole, *Life of Lord Stratford de Redcliffe*, i, 282.

[4] Stratford Canning, indeed, afterwards said that Canning had provided for the fair pretensions of every member of his Party (*Nineteenth Century*, Jan., 1880, Art. on Geo. Canning). M. Halévy is wrong in stating (*Hist. of the English People in* 1815, p. 157) that Stratford Canning's appointment as Envoy to the Confederated Swiss Cantons was part of these arrangements. As early as November, 1813, Castlereagh promised him suitable diplomatic employment, and Stratford accepted the Embassy in April, 1814 (*Lane-Poole*, i, 212). M. Halévy is also in error in stating that Stratford Canning was George Canning's brother; and that Huskisson's post was specially created for him.

First Commissionership of Woods and Forests. Two unpaid India Commissionerships were placed at Canning's disposal. Sturges Bourne accepted one, Ward the other, but the latter characteristically changed his mind immediately afterwards.[1] Binning was then appointed,[2] and Liverpool made an effort to procure a seat for him.[3] Blachford (or Blackford) became a Lord of the Admiralty.[4] Canning himself was to have the first Cabinet office that fell vacant.[5]

Honours were generously bestowed on other friends. Boringdon was to have an earldom as soon as other Peers of the United Kingdom were promoted: and consequently became Earl of Morley in 1815.[6] But with that honour

[1] *Letters to "Ivy,"* pp. 239–40, 248; Dudley, *Letters to the Bishop of Llandaff*, pp. 52–3.

[2] In the Autumn of 1815 Binning was offered the post of Ambassador to China, but declined it. It was then accepted by Amherst, one of Canning's friends in the House of Lords. Canning wrote to Huskisson from Lisbon (9 Dec., 1815): "You will perhaps have heard from Binning that opinions in Portugal differ somewhat from those in England respecting the desirableness of the Chinese Embassy. By putting his refusal on private grounds Binning of course disarms controversy. Of those, he only can judge. But as what he refused has been accepted by Amherst, I may venture to own that I am at least as glad that Amherst has taken it, as that Binning has passed it by" (Add. MS. 38740, f. 249; *Bagot*, ii, 10–11).

[3] Liverpool wrote to Wm. Kenrick, who had announced his intention of resigning his seat: "As you are so good as to leave it to my option whether you shall make the first communication of your intention to vacate, to Sir Charles Cockerell or Lord Binning, I must inform you that I am so circumstanced as to Lord Binning that it is of the utmost importance to me that the seat should be offered to him . . . I shall be much obliged to you therefore if you will communicate to Mr. Huskisson, who is fully authorised by Lord Binning to enter into any explanations which may be necessary on the subject of your letter" (Add. MSS. 38458, f. 197; 38193, f. 68). Binning, however, was brought in, not for Bletchingly, but for Midshall (Michael).

[4] He died, deeply regretted by Canning's friends, in 1816. Binning declined Liverpool's offer of the vacant seat at the Admiralty Board, as he wished to remain at the Board of Control and work with Canning. He was promoted to a salaried Commissionership of the India Board when Wallace retired in 1816, and so was Bourne two years later (succeeding Sullivan). (*Harewood MSS.* Binning to Canning, 19 April and 18 May, 1816; Huskisson to Canning, 18 May, 1816; Add. MS. 38272, f. 106.)

[5] Yonge's *Lord Liverpool*, ii, 253–4.

[6] Boringdon had written to Granville Leveson on 4 April, 1809: "I am impatient to learn from you what Canning has decided, as by this

he was far from being satisfied; he wished to be actively employed, and had conceived the ambition of succeeding Lord Whitworth as Lord-Lieutenant of Ireland.[1] Granville Leveson was to have a peerage whenever others were similarly promoted: he became Viscount Granville in July, 1815. To Bootle Wilbraham, who asked for a peerage at this time, Liverpool admitted that Granville's was given partly out of compliment to Canning, but said that it was also a reward for diplomatic services.[2]

Perhaps it was at this time that Canning stipulated a peerage for his cousin George, who had been in Parliament since 1806. Canning thus described their relations: "We meet but seldom; are very good friends when we meet, but do not correspond much, when absent."[3] Chiefly owing to the opposition of the Lord-Lieutenant, Colonel Canning did not get his Irish peerage until 1818.[4]

Dent, who in July, 1805, had declined a baronetcy, would now have liked one, but was too late in making known his wishes. He had written to Canning in 1805: "I am quite shocked to say the lady has *a great ambition to be called* —Mrs. Dent without any addition or alteration."[5] Canning now inquired, "How could I guess the Dog's wish to be Sir Dogby, when he so positively denied it? Has Mrs. Dog changed her mind, I wonder?"[6]

The publication in 1831 of Stapleton's *Political Life of Canning*, and of Huskisson's *Collected Speeches*, with an

time his decision must have been taken. If there should be any question of his resigning (which I cannot say that I expect there will) you may hint to him that that would be a proper moment to fix for my advance in the peerage . . ." (*Granville MSS.*). He wrote to the King, asking for an earldom, on 3 July, 1809 (*Windsor MSS.*). The letter is merely endorsed: "Receipt acknowledged 4th July."

[1] *Harrowby MSS.* Morley to Harrowby, 2 Nov., 1815; 29 Oct., 1816; *Granville MSS.* Morley to Granville, 28 Dec., 1816.

[2] Add. MS. 38260, ff. 95–8.

[3] *George Rose MSS.* in B.M. Canning to Rose, 15 Aug., 1806.

[4] Title, Lord Garvagh (Add. MSS. [Peel Papers] 40181, f. 76; 40292, f. 27).

[5] *Pitt MSS.* (120). Dent to Canning, Friday [19 July, 1805].

[6] Add. MS. 38739, f. 274.

inspired biographical memoir by Edward Leeves, threatened to give rise to a bitter controversy between Stapleton and Lady Canning on the one hand, and Mrs. Huskisson on the other. Stapleton inferred that in 1814 Canning made a great personal sacrifice for his friends; that he would never have accepted the Lisbon Embassy had not the Government made his acceptance a condition of its giving places and honours to his friends. But Mrs. Huskisson repelled the inference that it was chiefly for her husband's advancement (since he was the only one to be put in charge of a Department) that Canning took a step which involved a great personal sacrifice and increased his unpopularity. Charles Ellis, who carried on the negotiations orally with his uncle, the Prime Minister,[1] said, in 1831:

"I had always considered the two parts of the arrangement as necessarily connected together. I was not aware, or had forgot, that there ever had been any question of a separate arrangement for Canning's friends, or consequently any *condition* of his accepting the Embassy; but Stapleton tells us that Lady Canning has a letter in which Canning states to her that he had proposed to Liverpool, upon consideration of the probable impression from his acceptance of the Embassy, to give it up, but that Liverpool insisted upon holding him to it, as an indispensable condition." [2]

It is probably to this letter that Lady Canning referred, when she wrote to her nephew, Lord George Bentinck, on 17 February, 1828[3]:

"When Mr. Canning consented to take the Embassy to Lisbon, it was from a too generous and romantic sense of honour towards those whom he considered as having thrown themselves out of all chance of advancement by adhering to his fortunes—goaded to it, I believe, in no small degree by the continual wailings and lamentations of Huskisson and Co. I happened to be at Welbeck when the arrangement took place. I have therefore the means of proving the correctness of what I now say, by

[1] *Ibid.*, 38193, f. 41. Canning to Liverpool, 11 July, 1814.
[2] *Granville MSS.* Seaford to Granville, 19 July, 1831.
[3] *Harewood MSS.*

reference to letters which I then received. In one of these letters, after stating the long list of demands made for friends and followers, among whom Huskisson certainly benefited most, something to the following effect was added—I cannot be sure of the precise words, as I have not the letter here—but in substance I am certain I am correct.

"'I should undoubtedly much rather have remained as I am, and retired somewhere abroad, freed from all responsibility to others, but on sounding Lord Liverpool on the subject, I found that it would not be considered as satisfactory, and that the inducement to agree to so many demands for others, was the gaining my acknowledged and ostensible junction and support.'"[1]

Lord Seaford (Charles Ellis) tells us that Mrs. Huskisson was much annoyed at Stapleton's treatment of the 1814 episode, and that Lady Canning was so offended at Leeves' repudiation of the Stapleton version that she seriously thought of writing a pamphlet on the subject. Lord Seaford himself considered that the revival of the question of the Embassy could not be advantageous to Canning's memory, and that the case could not stand better than Canning had left it by his speech in 1817.[2]

Whether Canning in 1814 sacrificed himself more for the sake of his friends than for the country, may be disputed; beyond question, Huskisson had already sacrificed much for Canning. In 1809, and again in 1812, he had voluntarily deprived himself of high office by adhering to Canning—had put himself out of the running, whilst younger men had been brought forward and had outstripped him in the race. These competitors could not now be expected to give up their precedence, and Huskisson had to be satisfied with a small post, which, it is important to notice, he accepted against his own judgement[3]; and, but for the fact that he was promised promotion within a reasonable

[1] Unfortunately, it is at present impossible to quote the original letters, which are in the possession of Lord Harewood: Canning's letters to his wife have been mislaid.

[2] *Granville MSS.* Seaford to Granville, n.d. [1831].

[3] Add. MS. 38742, f. 255. Huskisson to Canning, 30 June, 1821.

time,[1] Mrs. Huskisson would have been justified in asserting that in 1814 Canning made no sacrifice for her husband. It is worth noting too that in December, 1821, Huskisson would have resigned office, but for his anxiety to avoid injuring Canning's prospects of going to India.[2]

Canning's effective voting strength had at no time exceeded fifteen, but his Party had been greatly courted both by the Government and the Opposition.[3] He had deliberately restricted its numbers, and repeatedly rejected overtures from members of other connexions. He had wished to avoid exciting any jealousy and resentment among the Whigs by recruiting his ranks from their numbers.[4] Moreover, having from the first surrounded himself only with men of character and ability, he considered that his party was sufficiently powerful from the quality of its component parts to make him arbiter of his own fortunes, and that with a very few such friends he stood in a more commanding and independent position than if he had had three or four times their number, all of whom would probably have felt that they had a claim on him.[5] His Tory supporters accepted his leadership because, unlike his chief rivals, he was a progressive Tory; he drew men like Ward from the Whig camp because he was opposed to revolutionary change.

Contemplating from Lisbon in April, 1815, the abdication of Napoleon and the return from Elba, Canning ruefully recognised that he himself had abdicated in 1812.

"I felt it so then, and never for a moment since, not even in the first success of Liverpool, have altered that opinion," he wrote. "Bonaparte, to be sure, has shown that abdications are not always final; but I see nothing in the state of affairs, not even in his re-establishment, which tempts me to imitate his example and to land at Falmouth by surprise." [6]

[1] *Ibid.*, f. 256.

[2] *Ibid.*, 38743, f. 59; *Granville MSS.* Huskisson to Granville, 3 Dec., 1821.

[3] *Hatherton MSS.* Autobiography.

[4] *Ibid. Diary*, 12 June, 1840. [5] *Ibid.* Autobiography.

[6] Add. MS. 38740, f. 109. Canning to Huskisson, 15 April, 1815.

There was, indeed, no English version of the return from Elba, and Canning's re-entry into the Cabinet in 1816 was no personal triumph. The Earl of Buckinghamshire's death enabled Liverpool to offer Canning the India Board, Melville's unwillingness to move frustrating the Prime Minister's plan of giving Canning the Admiralty. The "point of honour" still worried him, and, fearful of his reputation, he hesitated before accepting. "If I have doubted about it," he replied, "I wish you to understand that my doubts have been as to *taking office at all*, at the present moment, and not in any degree as to the particular office proposed to me." [1] This decision was approved by his friends, who thought that refusal would have meant abdication for ever.[2]

He was still out of humour with Granville, and some years elapsed before the cloud between them passed over. Morley wrote to Granville in 1818: "I am glad that in manner at least he is cordial and friendly with you, but I should be afraid that his mind was too frequently recurring to events, the consequences of which he long felt so bitterly." [3] His friends declared that at this time he was indifferent to politics and office, and gave his attention almost exclusively to his own department.[4] It is not generally known that he was thinking of going to India, if the Governor Generalship could be vacated for him, as early as the Spring of 1818. "It would open to him," said Morley, "wealth, power, peerage and fame." [5] Had the appointment been made at that time, Huskisson would have claimed Canning's office. The Board of Control being now the object of his ambition,[6] he declined the Irish Secretaryship in June, 1818, and, a little later, the Governor-

[1] *Ibid.*, 38568, f. 60. Canning to Liverpool, 8 March, 1816.

[2] *Harewood MSS.* Binning to Canning, 19 April, 1816; Stratford Canning to Canning, 29 March, 1816.

[3] *Granville MSS.* Morley to Granville, 25 May, 1818.

[4] *Ibid.* Morley to Granville, 10 March, 1819.

[5] *Ibid.* Morley to Granville, 18 June, 1818. "He would like the voyage," adds Morley, "and the climate and voyage might both prove beneficial to George" (Canning's invalid son).

[6] Add. MS. 38742, f. 258. Huskisson to Canning, 30 June, 1821.

ship of Madras which Canning's influence with the Court of Directors opened to him.[1]

Canning's friends and supporters were still referred to as a party after his return to England, though there was no formal re-creation. Those who had not been given office in 1814 continued, for the most part, steadily to support the Government. Littleton and Robert Smith lost touch with Canning for some years. They deeply regretted his acceptance of the Lisbon Embassy, and considered that he had lowered himself in public estimation by " truckling to Castlereagh." Littleton said that if Canning had stayed at home, kept his seat below the gangway on the ministerial side, and there played a prudently popular part, he would have been called upon, within two years, to form a government. Early in 1817, before the famous debate of 6 May, when Canning triumphantly exculpated himself from the charge of having corruptly accepted a " job " in 1814, Littleton observed, in the course of a conversation with Smith, " For my own part I have quite changed my mind about Canning " ; and Smith agreed. When the Party was broken up, Littleton had great doubts as to his future course, and consulted Ward, who was equally hesitant. He decided to give the Ministry an independent support from his old seat below the gangway. " I generally voted with the Government," he afterwards wrote, " opposing it, however, occasionally on some few questions which the Whig Government has since carried—some of them questions

[1] *Ibid.*, f. 206 ; 38756, f. 227. " The uncomfortable and precarious state of things at home " was an inducement for acceptance ; further, " it would be the means of a satisfactory and creditable employment for the next six years, and of an ample independence on my return to England." But he feared that his health might suffer ; he was apprehensive of " the effect of the wearing anxiety and irritation to which I know myself to be too liable, if my views and measures should be thwarted by conflicting authorities on the spot, or impeded and condemned by a vacillating or unfriendly Court of Directors at home " ; and he was still hopeful of promotion at home.

He wrote to his wife on 29 July, 1819 : " Lord William Bentinck has finally declined Madras, after giving Canning every reason to believe that he would accept it. His wife has prevailed " (Add. MS. 39949, f. 79).

of economy; but especially on questions relating to the improvement of the Criminal Law." As for Smith, he generally voted with the Ministers on questions of foreign policy, and with the Whigs on questions of domestic policy.[1]

Lord Harrowby once remarked that in a crisis Canning always made the wrong decision.[2] Had he remained in office in 1809 he would almost certainly have succeeded to the premiership three years later. Had he accepted Liverpool's terms in July, 1812, he, not Castlereagh, would have been the peacemaker of Europe in 1815. He again blundered in the summer of 1820 when, having refused to accept responsibility for the proposed measures against Queen Caroline, he failed to insist on the acceptance of his resignation. He wrote in October [3]:

"The truth is, I am afraid that Titchfield [4] was right, and that the moment that I found the Government going a road that I could not go with it, I ought to have taken my leave of them. It may come to that at last, with the additional disadvantage of taking my leave too late for any useful effect, and under the suspicion of taking it in consequence of the ill turn of the inquiry."

The Bill of Pains and Penalties was withdrawn in November, but, disapproving of the proposal permanently to exclude the Queen's name from the Liturgy, and of the use of the Foreign Office secret service money for the financing of the Milan Commission, Canning resigned. His friends did not follow him into retirement. He did not expect them to do so. Determined to avoid any appearance of concert

[1] *Hatherton MSS. Diary*, 6 Feb., 1818; Autobiography. Littleton wrote on 6 Feb., 1818: "I once thought he [Smith] would have joined Government when Canning and most of Canning's friends did (amongst which number at that time I ranked myself, and was the only country gentleman belonging to it). But Smith preferred acting on his own views of each particular question."

[2] *Harrowby MSS.* Lord Harrowby to his son, Lord Sandon, 21 Dec., 1820.

[3] *Stapleton MSS.* Canning to Chas. Ellis, 14 Oct., 1820.

[4] The eldest son of the Duke of Portland (Mrs. Canning's brother-in-law). See p. 204. He died in 1824. Lady Williams Wynn wrote (9 March, 1824): "Poor Canning has been very much shocked by the death of Lord Titchfield, to whom he was particularly attached" (*Corr. of Lady Williams Wynn*, p. 307).

or even communication, he made his decision without consulting any of them, and several days passed before he allowed Charles Ellis to inform the others.[1] His friends in office were prepared to defend the Government's proposals, and did so with their votes in the Session of 1821. Binning declared that had he been a Peer he would have voted for the Divorce Bill.[2] Granville, Morley, Amherst, and the Duke of Portland, however, voted against the Bill, and Morley excited the wrath of the Government whips by actually canvassing votes.[3] He asserted, most extravagantly, that he had turned twenty, that his speech gave the Bill its deathblow, and that he had been the instrument of Providence in averting a civil war.[4] Reports were so industriously circulated that Canning had influenced the votes of his friends in the House of Lords, that he and Granville thought it necessary to write to the Prime Minister to assure him that these rumours were utterly unfounded.[5] Canning was most anxious to avoid any action which might damage his relations with his colleagues and the King, and he wrote to Binning (28 Dec., 1820) :

" No purpose is more fixed in my mind than that of not getting again into the difficulties and responsibilities which attended my last retirement from office. I will have no connexion or confederacy. I will bind myself to nobody, and will on no account allow anyone to bind themselves, avowedly or implicitly, to me. With respect to all with whom I had any such communion, *liberavi animam meam*. And I do not deny that 1812 (to which you refer) sickened me of *a Party* for ever." [6]

Although the settlement of the Queen's affairs in 1821 removed the cause of Canning's differences with the Ministry, there still remained the King's hostility to his return to office, and in spite of Liverpool's entreaties, Canning was

[1] *Granville MSS.* Chas. Ellis to Granville, 5, 14 and 18 Dec., 1820.
[2] Add. MS. 38742, f. 133. Binning to Huskisson, 13 Nov., 1820.
[3] *Ibid.*, f. 104. [4] *Ibid.*, f. 175.
[5] *Granville MSS.* Granville to Liverpool, and Liverpool's reply, 9 Nov., 1820; *Harewood MSS.* Canning to Liverpool, 13 Nov., 1820; to Harrowby, 12 Nov., 1820.
[6] *Harewood MSS.*

offered, not office at home, but the Governor-Generalship of Bengal. The offer was accepted in March, 1822, but Canning's ship was still in the Thames on 12 August when Castlereagh committed suicide.

It was a critical moment not only for the Government but also for Canning and his friends. Half the Cabinet rejoiced at the prospect of his leaving the country, but the parliamentary situation could not be ignored. The possibility had to be faced that if Canning were denied Castlereagh's "whole heritage," he would throw up the Government of India, remain at home and go into opposition. Croker carefully considered this possibility on 25 August,[1] and though in his speech at Liverpool on the 30th Canning declared that he had not altered his arrangements, no one outside his own circle was to know that he might not change his mind. Croker said that in that event Canning would not only take with him all his ministerial friends such as Huskisson, Binning, Ellis and Bourne, but would command the votes of friends such as Robert Smith, Lord William Bentinck, Lord Titchfield, and Agar Ellis[2]: men who had hitherto given the Government merely an independent, and therefore uncertain, support; and who had refused to abandon the opposition or cross benches whilst he was in office. Moreover, he would win to his standard other members "inclined" to him: men like Littleton, Stuart Wortley, Charles Grant, Charles Tennyson, and "all the dissatisfied of all sides."[3] He would then head the most powerful floating party which had existed for nearly a century. His exclusion would be a serious blow to the

[1] Add. MS. 40319, ff. 57–67. Part of the letter has been printed in *Croker Papers*, i, 229.

[2] He specifically mentions thirteen names. It is fairly easy to classify them, by their votes in Parliament.

(*a*) Avowed Ministerialists: Huskisson, Binning, Ellis, William Courtenay, Ward, Gladstone, Bourne, Dent, and Joliffe.

(*b*) Independent friends: Robert Smith, Lord Titchfield, Lord Wm. Bentinck, and Agar Ellis.

[3] He mentions Littleton, Wortley, Grant, Tennyson, Heber, Gipps, and Marryat.

Catholics, for Castlereagh would be replaced as Leader of the Commons by Peel, the recognised head of the Protestant Party. Peel's promotion would eventually result in the resignation of Wellesley, the Lord-Lieutenant of Ireland, with whom catholic emancipation had always been a primary object. Wellesley would take over to the opposition side his own small following in the Commons, and the alliance of 1812 would be renewed. He and Canning would command about forty votes, against which, said Croker, " with such an Opposition as now exists, it would be impossible that any Government should stand three weeks." Finally, Croker was confident that the Grenvilles would resign and combine with Canning and Wellesley, and the Ministry would be unable to take the field after the first day.

These were not merely the calculations of a Taper or Tadpole. Lord Liverpool had declared in 1821 that the Government would find the greatest inconvenience in Canning's being in England for any time out of office [1]; and Harrowby had said that if Canning stayed at home, it would be " very difficult for him to remain long quiet upon the shelf." [2] Wellington told the King on 7 September that the continuance of Canning's presence in the Commons was " anxiously desired by many of the best friends of the Government, whose support would probably be lost " if Canning were overlooked.[3] Binning and Bourne, who had lost all desire for employment since Canning's resignation, had already, during the winter of 1821–22, thrown up their offices. Huskisson, too, profoundly dissatisfied with his position, and mortified that his claims to promotion should be passed over in favour of the pretensions of the Grenvillite Charles Wynn, had recently been drafting letters of resignation.[4] Binning and Bagot were confident that Canning's departure from England would drive Granville and Morley into opposition.[5] Huskisson had hinted at the

[1] *Bathurst Papers*, p. 527. [2] *Ibid.*, p. 526.
[3] Wellington, *Desp. Corr., and Memo.*, i, 277.
[4] Add. MS. (Huskisson Papers) 38743, f. 176 (27 July, 1822).
[5] *Bagot*, ii, 129.

resignation of the Grenvillites,[1] and on 20 August the Duke of Buckingham informed Wellington that his friends would probably leave the Government if Canning were excluded.[2] Granville Vernon, formerly a Whig, but now an independent supporter of the Ministry, wrote to Canning (16 August) expressing the conviction, which, he said, was shared by many others, that it was of essential importance to the country that he should occupy that position in the House of Commons and the Ministry which naturally belonged to him. He assured Canning that as an independent member he was perfectly at liberty to support any line of conduct in relation to the Government that he might think it expedient to adopt. The King and a section of the Cabinet might be hostile, but, said Vernon, "I am persuaded that your own strength and the feeling of many who would be desirous, like myself, to see you in your proper place, would enable you to *command* such a position as Court favour might not perhaps willingly assign to you."[3] "It is my determination," Charles Tennyson wrote to Canning (11 September), "to withhold support from the Administration unless you occupy *a very* prominent station and become its organ in the House of Commons." He went on:

"If you should listen to such as with me desire you to remain in England and occupy the vacant post, it has struck me that it may be well to show those with whom communication may be had, that there are individuals in the House of Commons, who,

[1] To Croker (Add. MS. 40319, f. 57).

[2] Wellington, *Desp. Corr., and Memo.*, i, 261.

[3] *Stapleton MSS.* Vernon was Lord Granville's nephew, and in 1812 he had tried to promote a union of the Whigs and the Canningites. "Mr. Perceval's death, and the events which followed it," he added, "defeated the sanguine hope which I then entertained of seeing you at the head of a Party which, detaching itself from the violent part of the Opposition, might be content to coincide in the liberal and enlightened views of policy which you had then recently expressed in differing on important topics from Mr. Perceval's system of government. I have never ceased to regret the failure of what then appeared to me a possible and desirable arrangement, nor have I subsequently taken the least interest in party politics, nor formed any connection with any member of the Government which I have been generally supporting."

now opposing the Government, are ready, *on that condition* and *on that condition alone*, to support it." [1]

It was to such members as Vernon that Wellington referred when he wrote (7 September):

"We knew and were informed that a large number of the supporters of Government, some even in office, had, during the last Session, lamented that a person of Mr. Canning's parliamentary talents should have been allowed to go away; and it was found that many individuals, some in office, declared that they could not support if, under existing circumstances, an attempt was not made to detain Mr. Canning in the country . . . I entertain no doubt that if we had determined to endeavour to carry on the Government without making an offer to Mr. Canning, we should have lost the support of all these and of Mr. Canning's particular party." [2]

On this occasion there was no wholesale admission of Canning's friends to places and honours, as in 1814. George IV was still too deeply offended with him, and, according to Arbuthnot, "most positively declared that should a proposal be made to him to introduce into the Cabinet any other person, he would not even consent to have an offer made to Canning." [3]

At first, therefore, Canning had little to offer his friends beyond a few departmental posts. Binning and Ward declined the Under-Secretaryship.[4] Lord George Bentinck became his private secretary, and Lord Howard de Walden, Charles Ellis's eldest son, his précis-writer. It has long been known that Canning made a great personal sacrifice by abandoning India with its prospect of wealth, power, peerage and fame; but only now are we aware of the additional sacrifice which he was prepared to make to secure Huskis-

[1] *Harewood MSS.* [2] Wellington, *Desp. Corr., and Memo.*, i, 277.
[3] Add. MS. 38744, f. 14. Arbuthnot to Huskisson, 8 Jan., 1823.
[4] Binning wished to retain his seat in Parliament. At this time only two Under-Secretaries were allowed to sit in the House of Commons, and Dawson and Wilmot Horton were not disposed to retire (Add. MS. 40351, f. 85). Ward hesitated as usual and eventually declined the offer (*Stapleton* and *Harewood MSS.* contain many references). But for his political obligations to others, Canning would have offered the Under-Secretaryship to Granville Vernon (*Stapleton MSS.* Canning to Vernon, 20 Oct., 1822).

son's promotion. He stipulated that the Governor-Generalship should be so bestowed as to create a vacancy for him.[1] The Board of Control, he thought, might be opened to Huskisson in one of two ways: either Charles Wynn might go to India, or Manners-Sutton, the Speaker—in which event, Wynn, supported by the Government, could hope to realise the long-cherished ambition of succeeding to the Speakership. But the Duke of Buckingham refused to allow Wynn to resign unless he himself were given Wynn's seat in the Cabinet: a suggestion which the King would not entertain.[2] Canning's other plan too broke down. Had Melville agreed to vacate the Admiralty and go to India, Canning would have been willing to relieve him of the Governor-Generalship after three years, "by which time," he said, "I shall have had enough of the House of Commons."[3] Liverpool said in reply that though Melville might be sounded, his wife's objections would be found to be insuperable; and added:

"With respect to the *three years*, events political and natural are too uncertain to speculate upon what may then be best. *Alors comme alors*, but I should deeply regret its being generally known that you had any formed plan of leaving the House of Commons at that or indeed at any other precise time, as it could not but have the effect of materially impairing your influence and authority in the House."[4]

This failure reduced Canning to a state of utter despair, and he declared that it would almost be better for all parties if he were to resume his abdicated Empire and embark in the *Jupiter* after all.[5] It was but small consolation to him that through his influence with the Court of Directors,[6]

[1] *Harewood MSS.* Canning to Liverpool, 14 Sept., 1822.

[2] Yonge's *Liverpool*, iii, 206.

[3] *Harewood MSS.* Canning to Liverpool, 14 Sept., 1822.

[4] *Ibid.* Liverpool to Canning, 15 Sept., 1822.

[5] Add. MS. 38743, f. 237. Canning to Huskisson, 9 Oct., 1822. "I am weary of all this," he wrote to Huskisson on 10 Jan., 1823, "and envy Amherst his berth on board the Jupiter" (*Ibid.*, 38744, f. 17).

[6] *Granville MSS.* Charles Ellis to Granville, 28 Oct., 1822. "Somewhat [*sic*], I confess I cannot guess how, but certainly somehow, he [Amherst] had contrived to please the East India Directors by his Chinese Embassy,

one of his friends secured the appointment. Family relationship pointed to Lord William Bentinck as Canning's successor, but Canning thought a military Governor-General was highly objectionable, and also that Lord William's politics put him out of the question: he was in constant opposition.[1] The other candidate, Lord Amherst, whom Canning declared to be even more connected with him, and to have better political principles, was not so acceptable to the Directors, though his conduct as Ambassador to China in 1816 had met with their approval; and as he had voted against the Bill of Pains and Penalties, the King declared that he could in no way be the object of his own selection.[2] Nevertheless, Canning's influence prevailed. Early in 1823 he obtained for Huskisson the office of President of the Board of Trade, but he was admitted to the Cabinet only in November.

In 1818 Granville had said that he had no further desire for diplomatic employment, as there was then "nothing to be done."[3] But in the autumn of 1822 he told Canning that he would like to go either to The Hague, or, preferably, Paris[4]; and he achieved his object the following year when he was sent to The Hague. On the death of Louis XVIII in 1824 he officially congratulated the new Sovereign, and was at once nominated Ambassador at Paris.

A few weeks after Canning's return to the Foreign Office

and had occurred to them without Canning's suggestion; but without Canning's help he as certainly would not have succeeded. This, I trust, he knows, and this knowledge, and the notoriety of his connexion with Canning, render him, as far as Canning is concerned, the most desirable choice."

[1] Add. MS. 38743, ff. 248–9. Canning to Huskisson, 23 Oct., 1822. "I am confident that the Government would have been disgraced by allowing a man to go, who intrigued for the station, against them, and in defiance of their known wishes and authority. His connexion with me might perhaps have corrected this impression, if he had been contented to work through that connexion, but after T[itchfield]'s speech at Lynn, *I* should have been as much disgraced as the Government by his success. . . ." See also Yonge's *Liverpool*, iii, 204.

[2] Yonge's *Liverpool*, iii, 207.

[3] *Hatherton MSS. Diary*, 22 Feb., 1818. "But I am mistaken," said Littleton, who reported this, "if he would not like to go to Paris."

[4] *Granville MSS.* Morley to Granville, 19 Nov. and 1 Dec., 1822.

Lord Morley had a long conversation with him and made known his wishes. He said that he did not mean to withdraw himself to any great distance from England during his son's education, and he would therefore much prefer the Buckhounds, the Mint, or the Post Office, to the Government of India or the Embassy either to Russia or Austria. If a comfortable and dignified situation at home could not be found, he would accept the Netherlands Embassy, but Paris would "worry and torment" him. At that moment Canning could make no promises, but Morley felt assured that something would soon be done for him.[1]

He was therefore keenly disappointed in 1823 when his claims to The Hague were passed over in favour of Granville's, but in September Liverpool enabled Canning to mollify him with a promise of the reversion of the Post Office. He accordingly declined the St. Petersburg Embassy in November, and declared in 1824 when The Hague Embassy was again vacant, that nothing could now tempt him to leave England.[2]

By 1826 Canning had completely regained the King's favour, and might now have had a peerage. "I want nothing for myself," he declared, "and the circumstances of my family would not justify my accepting a peerage in the way in which alone I have ever thought of accepting one—for them—*not* in my own person."[3] But as the King insisted on showing his appreciation of Canning's services, Canning suggested that his closest friend, Charles Ellis, should be honoured instead.[4]

. . . . . .

Morley tells us that Canning was advised to form his

[1] *Granville MSS.* Morley to Granville, 19 Nov., 1822.

[2] Add. MS. 38750, f. 100; f. 252; *Granville MSS.*, Granville to Morley, undated [1823]; *Stapleton MSS.*, Morley to Stapleton, 1 and 17 Dec., 1824.

[3] *Granville MSS.* Canning to Ellis, 27 May, 1826.

[4] *Ibid.* Canning to Ellis, 27 May, 1826; *Windsor MSS.* Liverpool to the King, 17 April, 1826; Canning to the King, 11 April and 30 May, 1826. ". . . Mr. Ellis was really overwhelmed by a communication so totally unexpected: and it was not till after four and

Government, in April, 1827, of persons not immediately connected with him.[1] The refusal of many " Protestant " Tories to serve under him, however, compelled him both to seek assistance from the Whigs and to rely on his personal friends to a larger extent than they desired. Huskisson remained at the Board of Trade to defend his recent tariff policy, but he intimated that he might retire from office when the Ministry was firmly established, unless he was promoted to the Chancellorship of the Exchequer.[2] Ward, now Lord Dudley, became Foreign Secretary. Sturges Bourne, who had intended in 1821 to withdraw permanently from public employment, at first refused to take the Home Office even until the end of the Session, saying that he could not execute its duties without discredit both to himself and the Government.[3] Canning replied with an ultimatum which could not be rejected. " My Administration WHOLLY depends upon your helping me for two months as Home Secretary of State." [4] Mrs. Canning wrote an equally appealing letter to her brother-in-law, the Duke of Portland, who agreed to enter the Cabinet as a " sleeping partner," with the office of Lord Privy Seal.[5] Canning's old friend Morpeth, now Lord Carlisle, also entered the Cabinet as First Commissioner of Woods and Forests.

Other friends and relatives filled minor posts. Howard de Walden and Lord Clanricarde (Canning's son-in-law) retained the Foreign Under-Secretaryships which they had had since 1824 and 1826, respectively. Sir George War-

twenty hours of reflection that he could persuade himself that he should do right in availing himself of such exceeding kindness on the part of Your Majesty. . . ." Ellis now became Lord Seaford.

[1] Add. MS. 38750, f. 251. Morley to Huskisson, 8 Sept., 1827.

[2] *Ibid.*, 38749, f. 190. Huskisson to Canning, 17 April, 1827. Huskisson's going to India as Governor-General had been discussed a few days earlier (*ibid.*).

[3] *Harewood MSS.* Bourne to Canning, 26 April, 1827. Before Canning decided to give up the Foreign Office he asked Sturges Bourne to take the Chancellorship of the Exchequer. (*Windsor MSS.* The King's Memorandum [written about the end of August, 1827]).

[4] *Ibid.* Canning to Bourne, 26 April, 11.30 p.m.

[5] *Ibid.* Mrs. Canning to the Duke of Portland, 21 April, 1827. He replied next day.

render kept his seat at the India Board, T. P. Courtenay the secretaryship of that Board, Granville his Embassy, and Wilmot Horton his Colonial Under-Secretaryship. Granville's nephew, Lord Francis Leveson-Gower, became a Lord of the Treasury. Doherty, who was related to Canning maternally, was appointed Solicitor-General for Ireland. Joseph Planta, who, since Castlereagh's death, had transferred his devotion to Canning, became joint Secretary of the Treasury. J. E. Denison, afterwards Speaker of the House of Commons, whom Canning had described as " one of the first, if not the very first, of the young men of his standing in point of ability and information, and of disposition to turn both to good account," [1] accepted a seat at the Admiralty Board. Lord William Bentinck, whose politics were no longer an obstacle to his appointment,[2] became Governor-General of India in June. Tierney's refusal of the Governor-Generalship dashed Morley's hopes of getting the Mint.[3] Binning was given an English peerage.[4]

Littleton afterwards said that he and Warrender were the only intimate friends of Canning's to whom no favours were offered ; but, he added, " had Canning lived a few years I have no doubt from the tenour of his conduct towards me, he would have offered me a peerage. At the period of his death I had scarcely done sufficient to earn it." [5]

Canning died in August and left no successor. Though Dudley and Huskisson were both able men, neither possessed the qualifications of a successful party leader. Dudley too had had little official experience ; his friends had wondered whether he was equal to the Foreign Secretaryship [6] ; and

[1] Add. MS. 38747, f. 104. Canning to Huskisson, 14 Sept., 1825.

[2] As early as 1824 Canning had changed his opinion in regard to Lord William Bentinck and the Governor-Generalship. He wrote to Wynn, the President of the India Board, on 27 Nov., 1824 : " I certainly should feel *exceedingly* embarrassed towards Lord William Bentinck if the offer which you mention were to be made to Lord Dalhousie, *unless* it had been made first to Lord William Bentinck and by him refused " (*Harewood MSS.*).

[3] Add. MS. 38750, ff. 100, 251. [4] Title, Lord Melros.

[5] *Hatherton MSS. Diary*, 12 June, 1840 ; Littleton to the Rev. W. Leigh, 28 April, 1827.

[6] *Granville MSS.* Seaford to Granville, 19 June, 1827.

in April he had been thought incapable of taking the lead in the House of Lords. By 1828 he had become much attached to his office, but throughout the Session of 1827 he had been anxious to resign it into Canning's hands. "Dudley," wrote Wilmot Horton in June, "is constantly harking on his short tenure, in the tone of rejoicing at his approaching escape from trammels." [1] Huskisson was unpopular with the Tory country gentlemen in the Commons, and his health was no longer equal to the strain of office. He had been seriously ill for six months, and felt that his political career was nearly at an end. When, after Canning's death, he took the Colonial Secretaryship, he declared that he had undertaken something beyond his strength, and that his friends would marvel at his rashness. His relatives and medical advisers strongly urged him to retire into private life.[2]

Sturges Bourne now refused not only to resume the Seals of the Home Department which he had joyfully handed over to Lansdowne in July, but also to take either the Exchequer or the Colonial Office, with the lead of the House of Commons.[3] His friends said of him that when he succeeded Peel, he could not disguise his detestation of office.[4]

Lord Holland, in the winter, thought that Carlisle would be a more creditable Prime Minister than Goderich, but Carlisle had no ambition to take a leading part, and had said, in April, that even the Privy Seal was "a higher flight" than he "could reasonably aspire to." [5] Granville had no intention of abandoning the diplomatic line. He had so thoroughly impressed Canning with a sense of his in-

[1] *Ibid.* Horton to Granville, 22 June, 1827.

[2] Add. MS. 38750, ff. 83, 105, 233, 235.

[3] *Harrowby MSS.* Bourne to Lord Harrowby, 11 Aug., 1827; *Granville MSS.* Seaford to Granville, 14 Aug., 1827; *Windsor MSS.* Sturges Bourne to the King, 11 Aug., 1827. Nothing but a sense of duty now prevented him from resigning the minor office of First Commissioner of Woods and Forests which he had accepted in July, "for the temporary purpose of preventing an arrangement which Mr. Canning apprehended would be less acceptable to Your Majesty."

[4] *Granville MSS.* Horton to Granville, 22 June, 1827.

[5] *Harewood MSS.* Carlisle to Canning, 26 April, 1827; *Granville MSS.* Lord Holland to Granville, 1 Jan., 1828.

capacity for office, that Canning, who had desired him to take the Foreign Office in April, had mercifully refused to put him to the torture. Writing to him on 17 April, Granville said :

" You must in the first place be prepared for my services in Parliament being absolutely null. I cannot undertake to do anything in the House of Lords beyond the mere answering any question which may be put to me across the table relative to matters immediately in my Department. I could not even undertake to make a *speech* in explanation of, or in defence of the foreign policy of the Government, because I know from experience that such is my nervousness and painful embarrassment when I attempt to speak, that there is always a great chance of every idea which I had arranged in my head as the substance of my speech escaping my recollection, at the moment I found myself upon my legs (as was the case when I last spoke in the House of Lords), and I cannot wish the disgrace of a positive *breakdown*.

" With respect to the business of the office, I have also to remind you that *writing* is with me a slow and laborious operation, and without any reference to the lamentable inferiority of my writing to yours, I must observe that I should be four hours writing the same quantity of despatch which you would write in one hour ; when, therefore, I recollect how every moment of your day is occupied at the Foreign Office, I can scarcely conceive it possible for me to get through the necessary business." [1]

Apart from Dudley and Huskisson, therefore, the most important members of Canning's party after August, 1827, were men who had never enjoyed his intimate friendship. Goderich shared his liberal principles, but owed his early political advancement entirely to his friend Castlereagh and the King. According to Arbuthnot,[2] Canning talked of

[1] *Granville MSS.* This letter clears up the uncertainty that has existed as to whether Granville was really offered the Foreign Secretaryship, as Princess Lieven asserted (*Diary of Princess Lieven*, ed. by Professor Temperley, pp. 124–5).

[2] Add. MS. 40340, f. 179. Arbuthnot to Peel, 17 Aug., 1827. He added : " Lord Liverpool used always to wonder to me what could have induced Lord Londonderry to bring him into the Cabinet . . . [Canning] was so struck with his failure in the Lords that for a moment he had resolved to become a Peer himself. And Herries, who worked with him, could not contain himself, and never ceased telling me that he would never face the House of Lords again as a Minister."

him to Lord Liverpool "with the most sovereign contempt"; the Huskissonites made no attempt to get him into the Wellington Ministry, and in June, 1828, refused to put themselves under his leadership.

Palmerston had never attached himself to any leader before 1827 and was as much a Whig as a Tory.[1] Stapleton says distinctly that neither Palmerston nor Charles Grant, who became President of the Board of Trade in August, 1827, was ever one of Canning's personal friends.[2] The other leading Canningite, William Lamb, was still labelled a Whig.[3]

. . . . . .

None of the party leaders of the time had more generous notions than Canning of the obligations which he owed to his supporters. Dudley said that Canning never thought he could do too much for them.[4] But what Dudley called his excessive generosity was tempered by a rare discretion. He never used his influence to secure undeserved promotion for them; unlike Sidmouth or the Duke of Buckingham, he was never the leader of a party of place-hunters. Morley was perhaps the only one who ever seriously embarrassed him with his importunity. The promise of the Post Office which had been rashly given him in 1823, could not be redeemed in July, 1826, when a vacancy occurred, without occasioning much difficulty. Lord Chichester could not have chosen to die at a more awkward moment. Ellis's peerage had just been gazetted, and Clanricarde was given an English peerage at the same time. Liverpool's brother-in-law, the Earl of Bristol, was made a marquis, and Stuart Wortley became Lord Wharncliffe. One or two, at any rate, of these honours were conferred without the knowledge of anyone in the Cabinet beyond Liverpool and Canning,[5] and all four (the last two erroneously) [5] were attributed to Canning's

[1] Bulwer's *Palmerston*, i, 220.
[2] *Stapleton MSS.* Stapleton to Lady Canning, 3 Dec., 1830.
[3] Bulwer's *Palmerston*, i, 190; *Parl. Deb.*, N.S., XVIII, 77.
[4] *Letters to "Ivy,"* p. 328.
[5] *Granville MSS.* Morley to Granville, 16 Nov., 1826.

influence. The Ultra Tories thought that far too much had recently been done for Canning's friends, and Liverpool told him that the last batch of Peers was highly unpopular.[1] On 7 July he wrote to him[2]:

"I believe that no appointment could be more unpopular and objectionable than that of Morley under all the present circumstances and at this particular moment. It would be injurious to the *Government*, to *you*, and to *me*, and would tend to aggravate other difficulties." "*If you insist upon it*," Canning told Morley next day, "we must do the best we can, but I must not disguise from you that, in that case, as Liverpool will be obliged to plead his engagement, *through me*, so shall I be obliged to plead your *insistence* upon that engagement, as a defence with the King and with many others."[3] On the 10th, Liverpool said he was prepared to propose Morley to the King, but added, "I will not further conceal from you that in carrying this arrangement into effect, I do it, not only in opposition to my own judgment but with strong violence to my feelings."[1] Next day, "after a sleepless night's deliberation," Canning told Morley that he was no longer prepared to enforce the obligation of the "bond" to which he and Liverpool had become parties. "Whatever," he said, "may be your construction of this step, I must bear it. *All* the reasons for it, you probably can never know. But I should not fear the judgment of any common friend. Of that of my own conscience I am sure, though made up, after a severer conflict of feelings, than I almost ever endured."[4]

Morley was enraged. "Whether we can ever be friends or not again," he said, "is more than I can at present foresee." A week later, however, he admitted that Canning had been placed in a most embarrassing situation, and that he ought to have released him from his engagement; and declared that there would be no change in their ancient relations.[5]

[1] Add. MS. 38301, f. 262. Liverpool to Canning, 10 July, 1826.
[2] *Ibid.*, f. 258. [3] *Ibid.*, f. 270. [4] *Ibid.*, ff. 274–6.
[5] *Granville MSS.* Morley to Granville, 14 and 21 July, 1826.

Canning's refusal to recommend Granville for a peerage in December, 1807, is a remarkable instance of his scrupulousness in taking advantage of his high position in the Government to promote the interests of his friends. Lord Harrowby, Granville's brother-in-law, suggested that his diplomatic services merited a peerage. Canning based his refusal on both public and private grounds. He replied: " You will not suspect me of depreciating Granville's services. But I cannot fairly say that there has been anything of so signal and commanding a nature in those of his last Mission as to claim, by right, the highest recompense which the Crown has to bestow." Canning also thought that the circumstances attending Granville's appointment the previous April made such an offer inexpedient. He said:

> " I confess I entertain also, individually, a different opinion from that which you appear to entertain as to the expediency of making the offer. If it were accepted I should feel much less comfort and should think there was much less credit to himself in Granville's subsequent agreement in politics than I could wish; and to make the offer with the chance of its being refused would be to *admit* that he was quite free, unless bribed, and to enable him (which nothing else can) to go into opposition with dignity." [1]

Canning here appears in the pleasing light of a party leader as anxious for the character and reputation of his followers as for his own.

He put Country before personal or party interests. Nothing but a sense of public duty induced him to take the Foreign Secretaryship in 1822,[2] and in 1814 he sacrificed his own interests to those of his friends and to the public service. When in 1811 the Whigs were expecting to return to office, and thought of making Huskisson an offer, Canning urged him to disregard all personal considerations, and not refuse to the Crown and to the country the services which

[1] *Harrowby MSS.* Canning to Harrowby, 29 Dec., 1807.

[2] For example, he wrote to Morley on 30 September, 1822: " I take no joy, and I feel none. I have sacrificed my interests, my wishes, and I believe my happiness; but I hope I have done my duty " (*Parl. Deb.*, N.S., XIX, 1115).

he was so well qualified to render them.[1] And in 1812, upon the failure of the July negotiations, Canning assured Liverpool that he would not stand in the way of the accession to office of any of his friends whose services the Government might yet be desirous of obtaining.[2]

Littleton once remarked that it was difficult to say whether he and his friends were liberal Tories or moderate Whigs.[3] Canning himself had entered political life as a Whig and a Parliamentary Reformer,[4] and several of his friends believed that had he lived, he would have supported the Reform Bill. Backhouse said that he would have watched and directed, not thwarted, the spirit of the times; he would have been a Reformer "with the view of taking the question out of the hands of those who are disposed to push Reform to Revolution."[5] In the main, of course, the Canningites had always been anti-Reformers, but by 1827 some of them had come to realise that a merely negative attitude was neither expedient nor practicable. Lord Sandon, we are told, "made a very reforming speech and voted against Canning" on the question of the Penryn Election Bill.[6] And Littleton afterwards wrote: "I coincided with Canning as long as he lived. But had he lived longer, and had opposed *moderate reform, which I do not think he would have done*, I should have opposed him. My reforming notions were no secret to him."[7]

Though the Canningites were for the most part supporters of catholic emancipation, several took the illiberal side. Milnes and Cartwright, however, adhered to Canning only

[1] Add. MS. 38738, f. 101. Canning to Huskisson, 25 July, 1811.
[2] Yonge's *Liverpool*, i, 421.
[3] *Hatherton MSS. Diary*, 4 Feb., 1845.
[4] Lady Airlie, *In Whig Society*, p. 20.
[5] *Stapleton MSS.* Backhouse to Stapleton, 26 and 29 Dec., 1830. See Lord Broughton's *Diary*, v, 179. Granville said: "Canning was anti-revolutionary, but he sought to avoid revolution, not by stubborn resistance to all movement and reformation, but by rendering the acts of the Government conformable to the spirit of the times" (*Granville MSS.* Granville to Haddington, 8 Jan., 1829).
[6] *Granville MSS.* Seaford to Granville, 29 May, 1827.
[7] *Hatherton MSS.* Littleton to the Rev. W. Leigh, 6 April, 1835.

for a short time; Joliffe had become converted to the catholic cause by 1813; Dent, who was in Parliament until 1826, voted with the "Protestants" for the last time in 1821; and William Lascelles changed sides in 1825 against the wishes of his father, Lord Harewood.[1]

Canning's early friends were divided on the question of the slave trade. Charles Ellis, whose interests were involved, declared in 1797 that he had invariably felt it his duty to oppose Abolition Bills. Bootle Wilbraham had always denounced immediate abolition; and Dent even declared that an Abolition Act would violate both Magna Carta and the Bill of Rights, and be a disgrace to the country.[2]

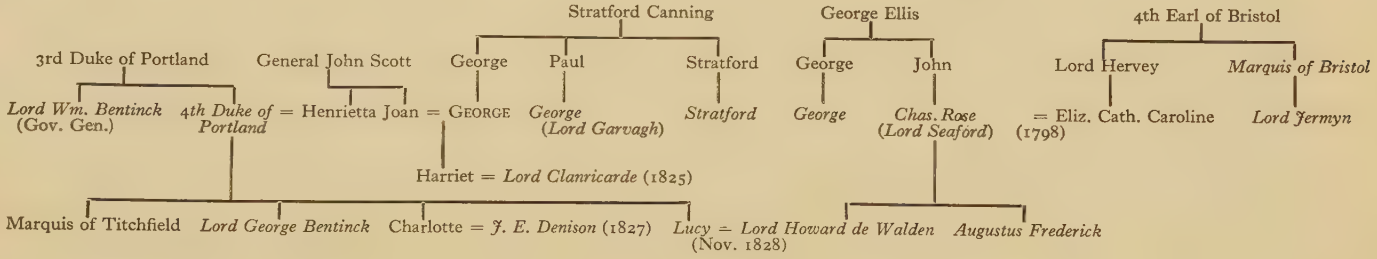
It is generally supposed that Canning's Party disappeared in November, 1830, when his most prominent friends joined the Reform Ministry. The truth is that it ceased to exist as an organised Party after January, 1828, when Wellington succeeded poor Goderich. It was broken into several fragments. There were those who supported the Wellington Ministry either in or out of office, but some of these did not acknowledge Huskisson as their leader. There was a smaller number of Canning's relatives who were deeply offended with the Huskissonites for taking office with Canning's enemies, and charged them with having been unfaithful to Canning's principles and memory. There were others who took each an independent line.

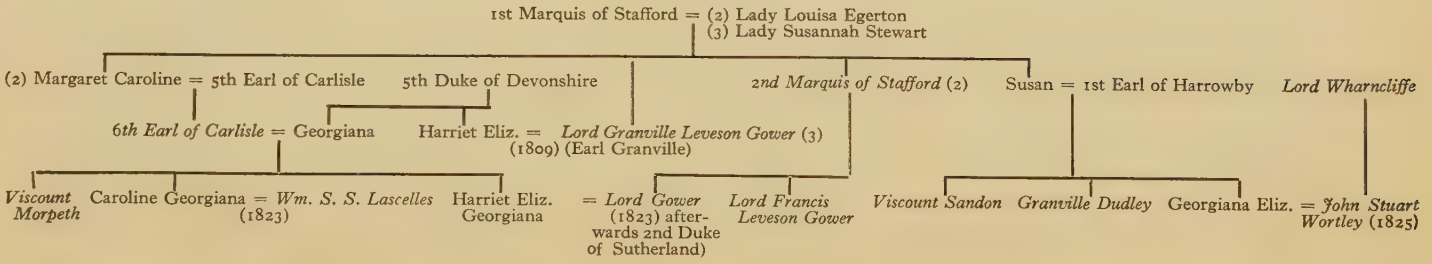
I have no time to trace the fortunes of these fragments of the Canningite Party, but must content myself with pointing out that not all Huskisson's friends went out of office with him in May, 1828; that death, desertion and election casualties reduced the strength of that group to eleven members of the House of Commons by the autumn of 1830; that not all the Huskissonites were absorbed by the Whigs after November, 1830, and that many other Canningites in both Houses voted against the Reform Bill, and joined Peel's new Conservative Party.

[1] *Granville MSS.* Littleton to Granville, 7 March, 1825.

[2] *Parl. Hist.*, 26 Feb., 1793, 18 Feb., 7 and 15 March, 1796, 6 April and 15 May, 1797, 1 March, 1799.

The following Tables show to what extent the Canningites were bound together by family ties. It may further be noticed that T. H. Villiers was Lord Morley's nephew; that H. T. Liddell was Lord Normanby's brother-in-law; and that Huskisson married the niece of Lady Melbourne, William Lamb's mother. I have not yet been able to trace the precise relationship between Canning and Doherty. (Canningites in italics.)




1st Marquis of Stafford = (2) Lady Louisa Egerton (3) Lady Susannah Stewart
(2) Margaret Caroline = 5th Earl of Carlisle
5th Duke of Devonshire
2nd Marquis of Stafford (2)
Susan = 1st Earl of Harrowby
Lord Wharncliffe
6th Earl of Carlisle = Georgiana
Harriet Eliz. = Lord Granville Leveson Gower (3) (1809) (Earl Granville)
Viscount Morpeth
Caroline Georgiana = Wm. S. S. Lascelles (1823)
Harriet Eliz. Georgiana
= Lord Gower (1823) afterwards 2nd Duke of Sutherland)
Lord Francis Leveson Gower
Viscount Sandon
Granville Dudley
Georgiana Eliz. = John Stuart Wortley (1825)

APPENDIX [1]

Canningites in the Parliament of 1796–1802 (10)

(Those marked * were not in the next Parliament)

Bourne, William Sturges; Ellis, Charles Rose; *Ellis, George; Dent, John; *Frere, John; *Frere, John Hookham; Joliffe, Hylton; Leveson-Gower, Lord Granville; Morpeth, Viscount; Wilbraham, Edward Bootle.

(George Ellis, who died in 1815, did not seek re-election; nor did the two Freres. The elder Frere was in Parliament only after 27 May, 1799; as his son had decided to take up a diplomatic career, Canning advised him in December, 1801, not to waste £2,000 in getting a seat at the General Election.) [2]

Canningites in the Parliament of 1802–6 (14)

Binning, Lord; Bourne, William Sturges; *Cartwright, William Ralph*; Dent, John; *Ellis, Charles Rose; Huskisson, William; Joliffe, Hylton; **Lawley, Sir Robert*; Leigh, Robert Holt; Leveson-Gower, Lord Granville; *Mildmay, Sir Henry Paulet St. John*; Morpeth, Viscount; Wilbraham, Edward Bootle; **Wrottesley, Sir John.*

(Those in italics are confirmed by Lord Colchester's *Diary*, i, 412, 487. Ellis, wrote Canning in November, 1806, "was lost at Seaford, and wisely declined an expensive and fruitless contest." [3] Lawley, who was given a peerage in 1831, and who died in 1833, was elected for the last time in 1802. Wrottesley was out of Parliament between 1806 and 1823, and subsequently voted with the Whigs. Huskisson was not a Canningite until after Pitt's death. Cartwright and Wrottesley are also confirmed by some of Canning's letters in the Granville collection. Possibly Mildmay should be in the earlier list, for Canning's letter to Leveson, 27 April, 1802, sug-

[1] I have compiled the following lists from the manuscript material cited in the Paper, and from the two printed lists mentioned below.

[2] Add. MS. 38833, f. 65. Canning to Hookham Frere, 14 Dec., 1801.

[3] *Ibid.*, f. 217.

gests that Mildmay was already acting with him. Cartwright was subsequently an independent member: see Le Marchant's *Life of Althorp*, pp. 88, 108.)

Canningites in the Parliament of 1806–7 (11)

Binning, Lord; Bourne, William Sturges; Canning, Colonel George; Dent, John; Huskisson, William; Joliffe, Hylton; Leigh, Robert Holt; Leveson-Gower, Lord Granville; Mildmay, Sir Henry Paulet St. John; Milnes, Robert Pemberton; Wilbraham, Edward Bootle.

(Authorities for Milnes: Bulwer's *Palmerston*, i. 95, 98; T. Wemyss Reid, *Life of First Lord Houghton*, i. 9.)

Canningites Elected in 1807 (17)

*Bagot, Charles; Binning, Lord; Blachford, Barrington Pope; Bourne, William Sturges; Canning, Colonel George; *Dent, John; Ellis, Charles Rose; Fitzharris, Viscount; *Greenough, George Bellas; Huskisson, William; Joliffe, Hylton; Leigh, Robert Holt; Leveson-Gower, Lord Granville; *Mildmay, Sir Henry Paulet St. John; Milnes, Robert Pemberton; *Taylor, William; Wilbraham, Edward Bootle.

(Bagot was in Parliament only a few months, resigning his seat when Canning appointed him Under Foreign Secretary in August, 1807. [Bagot, *Canning and his Friends*, i. 238–44.] Dent lost his seat in 1812, but was again in Parliament from 1818 until 1826; he died in November, 1826. Greenough was not in Parliament after 1812, Canning then failing to get him a seat. Canning wrote to Huskisson on 9 September, 1812: "I have thought it best to forward your letter to Binning, desiring him to write his decision upon it to you as well as to me. Should not you mention the subject of it to Taylor? After them, Greenough is certainly the person to whom I think we should be most bound to afford the opportunity. I hope, and believe, that everybody more immediately connected with us is already provided for . . ." [Add. MS. 38739, f. 1]. And on 3 October: "I know nothing of Taylor. Greenough is in Ireland . . ." [*Ibid.*, f. 69]. Mildmay died in 1808. Taylor could not be provided for in 1812; in 1818 he was hoping that his friends would get him what Huskisson called "a cheap seat," or that Canning could find some place in the Government for him.[1] Huskisson reported him as being "quite ruined." Fitzharris and Milnes ceased to be Canningites in the autumn of 1809.)

[1] *Harewood MSS.* Huskisson to Canning, 30 June, 1818.

THE CANNINGITES IN 1812

Before the Dissolution (15)	*After the Dissolution* (12)
	†Bernard, Thomas
Binning, Lord	
Blachford, Barrington Pope	Blachford, Barrington Pope
Bourne, William Sturges	
Canning, Colonel George	Canning, Colonel George
Dent, John	
Ellis, Charles Rose	Ellis, Charles Rose
Greenough, George Bellas	
Huskisson, William	Huskisson, William
Joliffe, Hylton	Joliffe, Hylton
Leigh, Robert Holt	Leigh, Robert Holt
Leveson-Gower, Lord Granville	Leveson-Gower, Lord Granville
†Littleton, Edward John	†Littleton, Edward John
	†Robinson, George Abercromby
	Smith, Robert
Taylor, William	
†Ward, John William	†Ward, John William
†Wilbraham, Edward Bootle	

(Those marked † are not in the Treasury List [Add. MS. 38363, f. 64], but they certainly should be. Peel is the authority for Bernard, who joined Canning's party early in 1813. Peel wrote on 1 April, 1813: "Mr. Bernard of the King's County has sided with Mr. Canning"; and on 10 May, 1813: "Upon the whole I think we lost very little in losing Mr. Bernard" [Add. MS. 40282, ff. 35, 152].

The Treasury queried Smith's membership of Wellesley's group, but he was certainly a Canningite. The Treasury queried Ralph Benson and Hugh Hammersley as Canningites in the new Parliament; but these, and Charles Pochin and Sir Home Popham, given as Canningites in the old Parliament, I have omitted for lack of evidence. The Treasury List, curiously enough, includes a J. Cannon, as a Canningite in the new Parliament, but no one of that name was returned, according to Hansard and the *Official Return*: though *The Times* of 16 October, 1812, announced that J. Cannon and Joliffe had been elected for Petersfield. The *Official Return* shows that Canning was elected for Petersfield on 9 October, but that, being also returned for Liverpool a week later, he made way at Petersfield for his cousin George, who was elected on 24 December.

Binning and Bourne returned to the House of Commons in December, 1814, and March, 1815, respectively. Bootle Wilbraham

abandoned Canning's party before the end of 1812; Blachford died in 1816; Granville Leveson went to the Lords in 1815; Colonel Canning obtained an Irish peerage (title, Lord Garvagh) in 1818; Robinson was not in Parliament after 1818, nor did Holt Leigh seek re-election after 1820, though he lived until 1843; "Bobus" Smith was not in the Parliament of 1818–20, and was re-elected in 1820 for the last time; and Ward succeeded to the peerage in 1823.

Early in August, 1812, Sheridan announced his determination to act with Canning henceforward, but there is no evidence of his actually doing so [*Granville MSS.* Canning to Leveson, 18 Aug., 1812].)

The Canningites in 1827 (Canning and Goderich Ministries)

(Those marked * are in Palmerston's List of June, 1828 [Bulwer's *Palmerston*, i, 278], but not in Lord Colchester's List [Colchester's *Diary*, iii, 568]. Those marked † are in Colchester's List, but not in Palmerston's. Those marked ‡ are in neither List. Both Lists are admittedly incomplete,[1] and the List printed in *Colchester* contains several inaccuracies, which I have corrected from the *Colchester* manuscripts in the P.R.O.)

A. In the House of Commons (32)

*Acland, Sir Thomas Dyke.

‡Bentinck, Lord William (appointed Governor-General of India in June)

Bourne, William Sturges (Home Secretary, April to July; then First Commissioner of Woods and Forests until January, 1828)

‡Chichester, Arthur

‡Courtenay, Thomas Peregrine (Secretary to the Board of Control since 1812)

[1] Palmerston gives the names of 11 Peers and 27 members of the House of Commons, and says there are "several others who have a great leaning towards us." Colchester says (2 June, 1828) that there are "at present from 21 to 25" in the House of Commons, but gives the names of only 17. Palmerston's List, which, like Colchester's, contains several inaccuracies, includes a certain Lord Spencer Chichester, but I have been unable to trace anyone of that name in the Parliament of 1826–30. Arthur Chichester's father, Lord Spencer Chichester, died in 1819. John Gladstone, father of the Prime Minister, was also returned at the general election of 1826, but I have not included him in the above list, for his election was declared void by the House of Commons, and on 29 March, 1827, Sir Francis Blake was elected for Berwick-on-Tweed in his stead. Stratford Canning and Lord George Bentinck (both in Palmerston's List) were elected only on 2 April, 1828, and 4 Feb., 1828, respectively.

*Denison, John Evelyn (a seat at the Admiralty Board)
‡Doherty, John (Solicitor-General for Ireland, in June)
Ellis, Augustus Frederick (gave up his seat to Canning in April and resumed it after Canning's death)
*Fitzgerald, John
Grant, Charles (Vice-President of the Board of Trade; succeeded Huskisson as President of the Board in August)
†Grant, Robert
Horton, Robert Wilmot (Under Colonial Secretary)
*Huskisson, William (President of the Board of Trade; Secretary for War and the Colonies in August)
Jermyn, Lord
†Joliffe, Hylton
Lamb, William (Irish Secretary)
*Lascelles, William Saunders Sebright
*Lennard, Thomas Barrett
Leveson-Gower, Lord Francis (a Lord of the Treasury: resigned in September)
Lewis, Thomas Frankland (Joint Secretary of the Treasury in September)
*Liddell, Henry Thomas
Littleton, Edward John
Loch, James (elected in June, 1827)
Morpeth, Viscount
*Normanby, Lord
Palmerston, Viscount (Secretary at War)
*Perceval, Spencer
‡Planta, Joseph (Joint Secretary of the Treasury in April)
Sandon, Lord (a seat at the Admiralty Board in December, though the Goderich Ministry collapsed before the appointment was actually gazetted)
†Villiers, Thomas Hyde
*Warrender, Sir George (a seat at the Board of Control)
Wortley, John Stuart

B. In the House of Lords (15)

‡Amherst (returned from India in 1828)
*Bristol
*Carlisle (First Commissioner of Woods and Forests, till July; then Privy Seal)
‡Clanricarde (Under Foreign Secretary since January, 1826; resigned in August)

*Dudley (Foreign Secretary)
*Goderich (Secretary for War and the Colonies, till August ; then First Lord of the Treasury)
*Gower
*Granville (Ambassador at Paris)
*Howard de Walden (Under Foreign Secretary since July, 1824)
*Melros (Earl of Haddington in 1828)
*Morley
‡Portland (Privy Seal, till July ; then retained his seat in the Cabinet without office until August, when he succeeded Harrowby as Lord President of the Council)
*Seaford
*Stafford, Marquis of
‡Wharncliffe

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REPORT OF THE COUNCIL. SESSION 1932–1933.

THE Council of the Royal Historical Society have the honour of presenting the Annual Report to the General Meeting of the Fellows as follows :—

The Council announce with regret the deaths of 24 Fellows during the Session. These include the following former office-holders in the Society :

Professor Elizabeth Levett, member of the Council from 1930 until her death on December 9, 1932.

Dr. T. Rice Holmes, an Honorary Vice-President from 1932 until his death on August 5, 1933.

The Hon. Sir John Fortescue, member of the Council 1912–1917, Vice-President 1917–1921, President 1921–1925, and Honorary Vice-President from 1925 until his death on October 22, 1933.

Dr. J. E. Morris, Vice-President from 1922 to 1925.

Two Corresponding Members of the Society also passed away during the session, namely, Sir John Ballinger and the Marquis de Villa Urrutia.

The rooms of the Society were used for meetings of the British Archæological Association, the British Records Association, the Canterbury and York Society, the Central London Branch of the Historical Association, the Huguenot Society, the Japan Society, the Jersey Society, the Lingard Society, and the Royal Numismatic Society.

On Tuesday, June 6, the Society gave an afternoon party to entertain the French historians who were attending the Anglo-French Historical Conference. By the courteous consent of the Russell Square Commissioners, the gardens of the Square were thrown open to the Society and its guests, and the Society's manuscripts and seals were on exhibition. There was a large attendance of Fellows and guests.

Monsieur August Zaleski represented the Society at the

celebration of the 25th Anniversary of the formation of the Société des Sciences et des Lettres de Varsovie, Poland, on November 23, 1932.

The President (Professor F. M. Powicke) was appointed to represent the Society on the Council of the British Records Association.

Professor Stenton and Professor Hamilton Thompson were appointed to represent the Society on the Joint-Committee instituted to secure closer co-operation between historians, geographers, and archæologists.

The President, on behalf of the Society, attended the ceremony of the laying of the foundation-stone of the new building of the University of London on June 26, 1933.

Professor A. C. Farran, Elphinstone College, Bombay, was asked to represent the Society at the Indian Oriental Conference to be held at Baroda during the coming winter.

Dr. G. P. Gooch represented the Society at the International Historical Congress held at Warsaw in August, 1933. Mr. J. F. Chance, Professor Hilda Johnstone and Dr. Rose Graham, appointed along with Dr. Gooch, were unable to attend the Congress.

Professor Hilda Johnstone and Professor G. N. Clark were appointed to represent the Society on the British National Committee of the International Historical Congress in place of Mr. Charles Johnson and Sir Richard Lodge, who have resigned.

The Library was enriched by many kind gifts from Fellows and others, among whom should be specially mentioned Sir Charles Firth (whose gift consisted of a large collection of transcripts from the Verney Papers made by the late Dr. S. R. Gardiner) and Mr. C. E. Lawrence, joint-editor of the *Quarterly Review*.

The exchange which since 1930 has been effected between the publications of the Society and the Annales de Bourgogne has now ceased. A new exchange has been arranged between the Society and the Société d'Emulation de Bruges. The

Society also has made arrangements to purchase the historical publications of the Royal Irish Academy.

The Tudor volume of the Bibliography of British History was issued at the end of July, 1933, by the Oxford University Press at the price of 30*s*. By arrangement with the Press, Fellows of the Society are allowed to procure the volume, through the office of the Society, for £1 0*s*. 9*d*. post free.

The preparation of the eighteenth-century volume has commenced, the Society having been singularly fortunate in securing an expert editor in Professor D. J. Medley, who has recently retired from his Chair in the University of Glasgow. Professor Medley, in conjunction with a special Committee, has planned the work, and has been successful in obtaining the valued co-operation of the following authorities for the various sections of the volume :—

Miss E. C. Batho, Mr. Arthur Bolton, Rev. W. E. Brown, Professor Callender, Professor W. G. Constable, Professor S. A. Cook, Mr. Bonamy Dobrée, Professor Dodwell, Professor J. Wight Duff, Sir Charles Firth, Mr. G. E. Fussell, Sir Henry Hadow, Mr. V. T. Harlow, Dr. A. W. Harrison, Mr. Ernest Harvey, Mr. R. T. Jenkins, Professor H. J. Laski, Sir Richard Lodge, Dr. Herbert Loewe, Professor Mackie, Miss J. de L. Mann, Miss Constantia Maxwell, Dr. S. H. Mellone, Mr. Stanley Morison, Sir Charles Oman, Professor A. E. Richardson, Dr. Charles Singer, Professor W. R. Sorley, Professor Norman Sykes, Professor A. Hamilton Thompson, Professor Turberville and Professor P. H. Winfield.

When the work is further advanced, subscriptions will be invited from Fellows of the Society who wish to secure this eighteenth-century volume.

At the Annual General Meeting held on February 9, 1933, Professor F. M. Powicke was elected President of the Society on the retirement of Sir Richard Lodge, who had completed four years of office.

Sir Reginald Blomfield, Professor J. E. Lloyd and Principal Sir Robert Rait and the Rev. Professor J. P. Whitney were elected Honorary Vice-Presidents.

The Vice-Presidents retiring under By-Law XVII were The Rev. Professor J. P. Whitney and Professor F. M. Stenton.

Dr. Eleanor Lodge, Sir Richard Lodge and A. E. Stamp were elected Vice-Presidents.

The Members of Council retiring under By-Law XVII were Professor H. W. V. Temperley, Professor G. S. Veitch and Miss I. J. Churchill.

Professor Geoffrey Callender, Miss M. V. Clarke, Professor H. H. Dodwell, A. L. Poole, Professor C. K. Webster, Geoffrey H. White, D. A. Winstanley, and Herbert Wood were elected members of Council.

Professor Stenton was subsequently co-opted upon the Publications Committee.

J. F. Chance was appointed Auditor for the Council and P. W. Chandler and W. T. J. Gun for the Fellows.

A preliminary Meeting of the Society was held on October 13, 1932, when the President (Sir Richard Lodge, Litt.D., LL.D.) delivered an Inaugural Address on "The English Factory at Lisbon: Some Chapters in its History."

The following Papers and Communications were read and discussed during the Session 1932–1933.

"A Discussion on the Exploration of Anglo-American Archives." Opened by Hubert Hall, Litt.D., F.S.A., Director R. Hist. S. (November 10, 1932.)

"A Discussion on the Modern Methods for the Study of Mediæval History and their Requirements." Opened by Professor F. M. Powicke, Litt.D., F.B.A., V.P.R.Hist.S. (December 8, 1932.)

"Woburn Abbey and the Dissolution of the Monasteries." By Miss Gladys Scott Thomson, M.A., F.R.Hist.S. (January 12, 1933.)

"The Office of the Resident Ambassador: Its Evolution as illustrated by the Career of Sir Thomas Spinelly, 1509–1522." By Miss Betty Behrens, M.A., F.R.Hist.S. (March 9, 1933.)

"The Economic and Social Effect of the Usury Laws in the eighteenth century." By Miss Sybil Campbell, M.A., F.R.Hist.S. (April 27, 1933.)

"Bede as a Classical and Patristic Scholar." By Professor M. L. W. Laistner, M.A., F.R.Hist.S. (May 11, 1933.)

The President (Sir Richard Lodge, LL.D., Litt.D.) delivered an Address at the Anniversary Meeting, February

9, 1933, his subject being "The Treaty of Seville (1729)."

The Alexander Medal was awarded to R. W. Southern, B.A., Fellow of Exeter College, Oxford, for an Essay entitled "Ranulf Flambard and Early Anglo-Norman Administration."

The Presidential Addresses with the Alexander Essay and the above Papers and Communications, including reports of the Discussions on November 10 and December 8, 1932, were printed in *Transactions*, Fourth Series, Vol. XVI. In addition to the above volume of *Transactions*, the following volume of the Camden Third Series was issued in October, 1933:—

Vol. XLVIII. *The Diplomatic Correspondence of Richard II*, edited by Edouard Perroy.

The following volumes of publications were in the press or in immediate preparation on October 31, 1933:—

British Diplomatic Instructions, Vol. VII, France, Part IV. Edited by L. G. Wickham Legg.

Rotuli Parliamentorum Anglie, hactenus inediti. Edited by H. G. Richardson and G. O. Sayles.

General and Provincial Chapters of the English Black Monks. Vol. III. Edited by W. A. Pantin.

List of Diplomatic Agents, 1789–1852. Edited by Professor C. K. Webster.

Camden Miscellany, Vol. XVI.

The Society during the year lost, in addition to those above-mentioned, 16 Fellows by resignation, 4 by removal from the roll for non-payment of subscription and 3 libraries by resignation. New Fellows were elected to the number of 67, 2 Fellows were reinstated and 1 library was admitted as a subscribing library.

The total membership of the Society on October 31, 1933, was 888 Fellows, including Ordinary, Life, Honorary and Corresponding Fellows. There were 274 subscribing Libraries. Of the Fellows, 3 were Honorary, 31 were Corresponding and 156 were Life Fellows. There were 68 Societies, British and Foreign, which exchanged *Transactions* with the Royal Historical Society.

The Treasurer reported that the income of the year ending October 31, 1933, exceeded the Expenditure chargeable against it by £416 19*s.* 11*d.*, allowance having been made for the volume of yearly *Transactions* then in the press. The amount received for subscriptions was slightly more than it was last year, and less had been spent on the library. The item publications had increased from £549 to £613 as was anticipated in last year's report; two volumes in the Camden Series had been issued to Fellows, as well as the Volume of *Transactions*.

The balance sheet showed that all the Capital Liabilities for which the Society was responsible were amply covered by the Council's investments. The Lease Renewal Fund established last year now stood at £488 11*s.* and the Pension Fund at £665 18*s.* The total liabilities (including a donation of £100 received through Mr. W. A. Pantin towards the cost of printing 3 volumes of *The General and Provincial Chapters of the English Black Monks*) (1215–1540), amounted to £4,070 9*s.*, while the investments showed a total valuation of £5,122 16*s.* 10*d.*, having a current market value of £6,559.

ROYAL HISTORICAL SOCIETY.

I.—Income of the Year ending October 31, 1933, and the Charges thereon.

Income.	£	s.	d.
Subscriptions received for year 1932 . . £54 0 0			
Less amount estimated to be received in last year's accounts for subscriptions in arrear 35 0 0			
Subscriptions in arrear, received in excess of estimate	19	0	0
Subscriptions now in arrear estimated to be received	35	0	0
Subscriptions of 1933:			
" " 1 at 20s. . . 1 0 0			
" " 3 at 21s. . . 3 3 0			
" " 265 at 30s. . . 397 10 0			
" " 661 at 42s. . . 1388 2 0			
	1789	15	0
Life subscriptions 126 0 0			
Less proportion required by By-law IX to be invested (see Balance-sheet) . . . 84 0 0			
	42	0	0
Dividends on Investments	218	8	4
Interest on Deposit Account at Bank	5	10	5
Rentals received	263	16	6
	£2373	10	3

Expenditure (including charges).	£	s.	d.
Publications: Printing, Distributing, Editing and Indexing . £660 7 3			
Less received from Sales . 47 3 11			
	613	3	4
Salaries and Wages	691	1	3
Rent of Premises, 22 Russell Square	170	0	0
Coal	15	16	6
Electric Light, Gas, etc.	16	17	7
Rates (Parochial, etc.) and Taxes	171	16	11
General Printing and Stationery	54	17	4
Library: Books, Periodicals, Binding, and Cataloguing .	68	6	1
Postages, etc.	44	2	3
Premises, 22 Russell Square: repairs, etc. . . .	38	15	9
Insurance (Fire, National Health, etc.)	10	9	2
Monthly Meetings (cost of Refreshments) . . .	23	12	4
Alexander Medal	3	5	0
Contribution to British Committee of International Congress	15	15	0
Sundries (Petty Cash payments)	18	11	10
	1956	10	4
Balance, being excess of Income over Expenditure for the year ending October 31, 1933, after including the amount owing to Printers for work outstanding and not paid till 1934; carried to Balance-sheet .	416	19	11
	£2373	10	3

ROYAL HISTORICAL SOCIETY.

II.—Balance-sheet of Liabilities and Assets at October 31, 1933.

Liabilities.		£ s. d.
Life subscriptions required to be invested as Capital Account (By-law IX): amount brought forward from last Balance-sheet	£2732 0 0	
Proportion of Life subscriptions received in 1933 (see Income and Expenditure Account)	84 0 0	
		2816 0 0
Lease Renewal Fund:		
Balance from last year	288 11 0	
Cost of £200 9 1 Conversion Stock 3½%	200 0 0	
		488 11 0
Pension Fund:		
Balance from last year	553 15 0	
Interest received	12 3 0	
Cost of £100 0 0 Conversion Stock 3½%	100 0 0	
		665 18 0
Donation per Mr. W. A. Pantin to forthcoming Camden volume		100 0 0
		4070 9 0
[Represented by Consols, India 3½% Stock, Canada 3½% Stock, National Savings Certificates, Conversion Stock 5%, Conversion Stock 4½%, Conversion Stock 3½%, and Cash on Deposit—see *contra*.]		
Subscriptions received in advance		14 14 0
Amount due to Printers		295 10 0
Balance, being surplus of Assets over Liabilities at date, viz., Amount brought forward from last year	£3712 8 0	
Deduct Pension Fund (as above)	100 0 0	
	3612 8 0	
Deduct Lease Renewal Fund (as above)	200 0 0	
	3412 8 0	
Add Excess of Income over Expenditure, as per Account I	416 19 11	
		3829 7 11
		£8210 0 11

Assets.		£ s. d.
Consols 2½%, £699 9s. 9d. valued at	£314 0 0	
India 3½% Stock, £900 valued at } in 1920	500 0 0	
Canada 3½% Stock, £300 valued at }	200 0 0	
500 National Savings Certificates, at cost	400 0 0	
Conversion Stock 5%, £879 3 6, at cost	826 3 1	
Conversion Stock 4½%, £1220 at cost	1177 2 3	
Conversion Stock 3½%, £2139 0 1 at cost	1705 11 6	
Russian 4% Bond, £98 17 6 [no value]	0 0 0	
		5122 16 10
[The market value of the above investments on October 31, 1933, was £6559]		
Cash at Bank: Current Account	£150 9 1	
„ Deposit „	901 10 2	
Petty Cash Balance in hand	0 4 10	
		1052 4 1
Stock of Publications at Russell Square (value as insured)		100 0 0
Stock of Publications with Printer (value as insured)		500 0 0
Library (value as insured)		1000 0 0
„ Manuscripts (value as insured)		100 0 0
Furniture, etc. „ „		300 0 0
Subscriptions in arrear estimated to be received (see Income and Expenditure Account)		35 0 0
		£8210 0 11

(*Signed*) M. S. Giuseppi, *Hon. Treasurer.*

Auditors' Report.

The above Statement of Income and Expenditure and Balance-sheet have been prepared from the Books and Vouchers, and we hereby certify the same to be correct, and to exhibit a true statement of the Society's financial position.

December 8th, 1933. (*Signed*) J. Frederick Chance

DAVID BERRY ESSAY TRUST

Under the Will of the late David Anderson-Berry, the Royal Historical Society became the Trustees of a Fund called the David Berry Prize Fund. This is administered for the Charity Commissioners by the Council of the Royal Historical Society. The Fund consists of Securities in the 3½ per cent. Conversion Stock and New Zealand 4½ per cent. Inscribed Stock 1945, and the interest on these Securities, together with the charges on this interest, are shown in the Account below.

CASH ACCOUNT.

For the year November 1, 1932, *to October* 31, 1933.

Receipts.

			£	s.	d.
1932					
Nov. 1.	Balance in hand brought forward from last account, viz.:				
	Petty Cash Balance in Hand. .		18	1	1½
	Balance in Bank Pass Book .		105	3	10
			106	1	11½
1933					
March 3.	Cash and Dividend on Investment per Charity Commissioners		11	13	1
April 4.	,,	,,	11	2	2
Sept. 4.	,,	,,	11	13	1
Oct. 4.	,,	,,	11	2	2
			£151	12	5½

Payments.

			£	s.	d.
1933					
Feb. 11.	Printing		1	1	3
Oct. 31.	Petty Cash Payments:				
	Postages				3
			1	1	6
Oct. 31.	Balance in hand carried forward, viz.:				
		£ s. d.			
	Petty Cash Balance in Hand	17 10½			
	Balance in Bank Pass Book .	149 13 1			
			150	10	11½
			£151	12	5½

We have examined the above account and find it correct. (*Signed*) J. Frederick Chance, Pretor W. Chandler, William T. J. Gun } *Auditors.*

December 8th, 1933.

ALEXANDER PRIZE

The Alexander Prize was established in 1897 by L. C. Alexander, F.R.Hist.S. It consists of a Silver Medal awarded annually for an essay upon some historical subject. Candidates may select their own subject provided such subject has been previously submitted to and approved by the Literary Director. The essay must be a genuine work of original research, not hitherto published, and one which has not been awarded any other prize. It must not exceed 6,000 words in length and must be sent in on or before March 31st.

LIST OF ALEXANDER PRIZE ESSAYISTS (1898–1934) [1]

1898. F. Hermia Durham (" The Relations of the Crown to Trade under James I ").

1899. W. F. Lord, B.A. (" The Development of Political Parties in the reign of Queen Anne ").

1901. Laura M. Roberts (" The Peace of Lunéville ").

1902. V. B. Redstone (" The Social Condition of England during the Wars of the Roses ").

1903. Rose Graham (" The Intellectual Influence of English Monasticism between the tenth and twelfth centuries ").

1904. Enid W. G. Routh (" The Balance of Power in the Seventeenth Century ").

1905. W. A. P. Mason, M.A. (" The Beginnings of the Cistercian Order ").

1906. Rachel R. Reid, M.A. (" The Rebellion of the Earls, 1569 ").

1908. Kate Hotblack (" The Peace of Paris, 1763 ").

1909. Nellie Nield, M.A. (" The Social and Economic Condition of the Unfree Classes in England in the Twelfth and Thirteenth Centuries ").

[1] No award was made in 1900, 1907, 1910, 1911, 1913, 1914, 1921. The prize Essays for 1909 and 1919 were not published in the *Transactions*. No Essays were submitted in 1915 and 1916.

1912. H. G. Richardson (" The Parish Clergy of the Fourteenth and Fifteenth Centuries ").

1917. Isobel D. Thornley, B.A. (" The Treason Legislation of 1531–1534 ").

1918. T. Plucknett, B.A. (" The Place of the Council in the Fifteenth Century ").

1919. Edna F. White, M.A. (" The Jurisdiction of the Privy Council under the Tudors ").

1920. J. E. Neale, M.A. (" The Commons Journals of the Tudor Period ").

1922. C. E. Martin (" The English Establishments on the Gold Coast in the Second Half of the Eighteenth Century ").

1923. E. W. Hensman, M.A. (" The Civil War of 1648 in the East Midlands ").

1924. Grace Stretton, B.A. (" Some Aspects of Mediæval Travel ").

1925. F. A. Mace, M.A. (" Devonshire Ports in the Fourteenth and Fifteenth Centuries ").

1926. Marian J. Tooley, M.A. (" The Authorship of the *Defensor Pacis* ").

1927. W. A. Pantin, B.A. (" Chapters of the English Black Monks, 1215–1540 ").

1928. Gladys A. Thornton, B.A., Ph.D. (" A Study in the History of Clare, Suffolk, with special reference to its development as a Borough ").

1929. F. S. Rodkey, A.M., Ph.D. (" Lord Palmerston's Policy for the Re-juvenation of Turkey, 1839–47 ").

1930. A. A. Ettinger, D.Phil. (" The Proposed Anglo-Franco-American Treaty of 1852 to guarantee Cuba to Spain ").

1931. Kathleen A. Walpole, M.A. (" The Humanitarian Movement of the Early Nineteenth Century to Remedy Abuses on Emigrant Vessels to America ").

1932. Dorothy M. Brodie, B.A. (" Edmund Dudley, Minister of Henry VII ").

1933. R. W. Southern, B.A. (" Ranulf Flambard and Early Anglo-Norman Administration ").

1934. S. B. Chrimes, M.A., Ph.D. (" Sir John Fortescue and his Theory of Dominion ").

DAVID BERRY PRIZE

The David Berry Prize was established in 1929 by David Anderson-Berry in memory of his Father the Reverend David Berry. It consists of a Gold Medal and Money Prize awarded every three years for Scottish History. Candidates may select any subject dealing with Scottish History within the reigns of James I to James VI inclusive, provided such subject has been previously submitted to and approved by the Council of the Royal Historical Society. The Essay must be a genuine work of original research not hitherto published, and one which has not been awarded any other prize. There is no limit to the length of the Essay. It must be sent in on or before October 31st, 1937.

ROYAL HISTORICAL SOCIETY.

(INCORPORATED BY ROYAL CHARTER.)

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Assistant Secretary and Librarian.

Miss M. B. Curran, M.A.

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22 Russell Square, W.C.1.

Bankers.

Barclays Limited, 9 Russell Square, W.C.1.

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Domesday Studies, 2 vols. 1886. 24s.

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Walter of Henley's Husbandry, together with an anonymous Husbandry, Seneschaucie, and Robert Grosseteste's Rules. Edited by E. Lamond and W. Cunningham, D.D., Litt.D. 4to. 1890. 12s.

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